



**Lake Forest Park Planning Commission  
Regular Meeting  
Tuesday, June 14, 2022  
PROPOSED AGENDA**

**Meeting to be Held Virtually and at City Hall (17425 Ballinger Way NE)**  
See second page for information about how to participate virtually

1. **Call Meeting to Order—7:00 p.m.** (confirm recording start)
2. **Land Acknowledgement**
3. **Welcome New Commissioners**
4. **Approval of Agenda**
5. **Public Hearing** – Proposed Sign Code Update: Ch. 18.52 (Signage) LFPMC
6. **Approval of Meeting Minutes** – May 10, 2022
7. **Meeting Dates**
  - Next regular meeting is scheduled for July 12, 2022
8. **Citizen Comments** (Each speaker has three minutes to comment)

The Planning Commission accepts oral and written citizen comments during its regular meetings. Written comments are no longer being read during the meeting. Instructions for how to make oral Citizen Comments are available here: <https://www.cityofffp.com/617/Virtual-Planning-Commission-Meetings>
9. **Report from City Council Liaison**
10. **Old Business:**
  - Sign Code Update - Review revised draft language in response to Commission discussion at last meeting, discuss public comments, and consider making a recommendation to City Council
  - Reasonable Use Exception – Discussion of review process and post-construction compliance
11. **New Business:** Discussion of preferences for virtual or in-person attendance at future meetings
12. **Reports and Announcements**
13. **Additional Citizen Comments**

**14. Agenda for Next Meeting**

**15. Adjournment**

*Planning Commission's Land Acknowledgement*

*We'd like to acknowledge we are on the traditional land of a rich and diverse group of Native Peoples who have called this area home for more than 10,000 years. We honor, with gratitude, the land itself and the descendants of these Native Peoples who are still here today. In doing this we aim to illuminate the longer history of this land we call home, our relationship to this history, and the heritage of those peoples whose ancestors lived here before the European-American immigration that began in the 1800s.*

**Instructions for participating in this meeting virtually:**

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/85093777074>

Or One tap mobile :

US: +12532158782,,85093777074# or +13462487799,,85093777074#

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Dial(for higher quality, dial a number based on your current location):

US: +1 253 215 8782 or +1 346 248 7799 or +1 408 638 0968 or +1 669 900 6833  
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Webinar ID: 850 9377 7074

International numbers available: <https://us06web.zoom.us/j/85093777074>



## **Memorandum**

**To:** Planning Commission  
**From:** Steve Bennett, Planning Director  
**Date:** June 10, 2022  
**Re:** June 14, 2022 Meeting Agenda Materials  
**Attachment:** 1. Public Hearing Draft of Amendments to Ch. 18.52, Signage, LFPMC  
2. Hearing Examiner Decision on 2016 Reasonable Use Exception Proposal

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### **Sign Code Update**

Attachment 1 is a new draft of the proposed amendments to Ch. 18.52 (Signage) that is intended to reflect the direction provided by Commissioners at the last meeting. This draft only includes explanatory comments for changes that have been made since the May 10 Commission meeting. The tracked changes formatting shows only proposed additions and deletions to the currently adopted sign code language. After the public hearing, Commissioners can review revised draft language in response to Commission discussion at last meeting, discuss whether additional changes are needed in response to public comments, and consider making a recommendation to City Council.

### **Reasonable Use Exceptions**

In preparation for a second discussion of Reasonable Economic Use Exceptions (RUE or REU), I have attached a hearing examiner decision on a RUE that was applied for in 2016 and approved in 2017 (Attachment 2) for your review. This subject property is encumbered by wetland and stream buffers (as opposed to the Crane project reviewed in May which pertained to exceptional tree restrictions). Hope you will take time to read through the findings of fact, conclusions of law, and the conditions of approval (no need to spend much time on the footnotes). These sections serve as good background for a more detail about the RUE review process and post-construction monitoring and compliance.

1  
2  
3 **City of Lake Forest Park - Planning Commission**  
4 **Draft Regular Meeting Minutes: May 10, 2022**  
5 **Virtual/Zoom Meeting**

6 **Planning Commissioners present:** Chair Maddy Larson, Ira Gross, Lois Lee, David Kleweno, Walter  
7 Hicks, Melissa Cranmer, and T.J. Fudge  
8

9 **Staff and others present:** Steve Bennett, Planning Director; Nick Holland, Senior Planner, Kim Adams-  
10 Pratt, City Attorney  
11

12 **Members of the Public**(based on Zoom screen name): Lake Forest Park Citizen’s Commission, Julian  
13 Anderson, Josh Parker, Kim Josund, Meridith LaBonte, Randi Sibonga, Dan Benson, Sally Yamasaki  
14

15 **Planning Commissioners absent:** n/a  
16

17 **Call to order:** Chair Larson called the meeting to order at 7:08 pm.  
18

19 **Land Acknowledgement:**  
20 Cmr. Hicks read the land acknowledgement.  
21

22 **Approval of Agenda**  
23 Cmr. Lee made a motion to approve the agenda, Cmr. Fudge seconded, and the motion to approve the  
24 agenda passed unanimously.  
25

26 **Approval of Meeting Minutes**  
27 Cmr. Gross made a motion to approve to approve the April 12, 2022, meeting minutes. Cmr. Kleweno  
28 seconded.  
29 Cmr. Gross indicated that he didn’t attend the meeting and requested that the correction will be made.  
30

31 Cmr. Cranmer said that Jolene Jang said she published a website and requested that it be added to the record:  
32 <https://parcelbyparcel.wixsite.com/my-site>.  
33

34 Chair Larson said Page 2, line 5, has a typo and should be amended to read “which staff”; she said line 13  
35 should read “were”; and said that page 4 line 23 should be corrected because she wasn’t personally asking to  
36 understand the RUE process and laws. The Commission had agreed to discuss these topics.  
37

38 All voted to approve the minutes as amended. The motion carried unanimously.  
39

40 **Meeting Dates:**  
41 Chair Larson noted that the next regular meeting is scheduled for June 14, 2022.  
42

43 **Citizen Comments:**  
44  
45 Sally Yamasaki said she lives at 17868 40 AVE NE. She said that she appreciated the Commission’s study of  
46 the RUE regulations. She said that climate change is affecting the environment, and that the regulations need  
47 to change to reflect that idea.  
48

49 Randi Sibonga said she represents the LFP stewardship foundation. She said that she appreciates the  
50 Commission’s work on RUE policy. She said that her organization advocates for environmental protection  
51 and has been involved to protect the environment through development projects on 28 Ave NE. She said  
52 that the acreage that now represents Grace Cole nature park was purchased by her organization. She talked

1 about the functions of the park and said that the foundation is engaged in a regular basis and is a party of  
2 record for RUE applications. She said that the developers for projects on 28 AVE NE, didn't perform the  
3 necessary mitigation required by the RUE approval. She talked about the enforcement action brought upon  
4 by the City for those types of violations. She said the second project her foundation has interest in is the  
5 property next to Jolene Jang's property. She said that Lyon Creek runs through the lot. She asked what type  
6 of mitigation will be required. She said that they are concerned about the project and that flooding could  
7 occur. She asked what resources the city has to enforce the laws.  
8

9 Dan Benson said he lives at 17868 40 AVE NE and that he is interested in the work the Commission is  
10 doing. He talked about his understanding of the regulations and what types of properties are being  
11 developed. He talked about how to mitigate impacts for the tree canopy protection and implications that  
12 could occur without the correct enforcement. He said that he has commented on past projects.  
13

14 Chair Larson summarized the focus of rest of meeting and described the agenda items.  
15

### 16 **Old Business**

- 17 • *Sign Code Update - Review revised draft language in response to*  
18 *Commission discussion at last meeting and set date for public hearing*

19 Chair Larson reminded the Commission that the Council will likely start from scratch with the sign code  
20 analysis and amendments.  
21

22 City Attorney Pratt said Council may not start from scratch, but that they will begin from ground zero and  
23 build on what the Commission has recommended.  
24

25 City Attorney Pratt said that a recent Supreme Court decision on confirmed that off premise signs can be  
26 regulated. She then summarized the new amendments to Section 1 of the draft ordinance, Definitions, and  
27 asked if there were any questions.  
28

29 City Attorney Pratt summarized Section 2, which addresses prohibited signs, and Section 3, which regulates  
30 signs that are exempt from permitting. She asked for questions. Chair Larson asked about the sign  
31 dimensions and City Attorney Pratt responded and clarified.  
32

33 City Attorney Pratt then summarized Section 4, addressing temporary sign regulations throughout the City.  
34 She presented the new item (F) and described its content. She said that the court case helped guide the way  
35 the language was drafted. Cmr. Cranmer asked why someone couldn't post a sign on their fence. City  
36 Attorney Pratt responded and indicated that it was her understanding that that was the policy direction given  
37 by the Commission. Cmr. Lee and Cmr. Hicks provided their perspectives on how temporary signs on fences  
38 should be regulated. Discussion continued surrounding the location of temporary signs. Cmr. Cranmer said  
39 that the regulations seem complicated and perhaps not easy to understand. Director Bennett suggested  
40 seeing if there was consensus on deleting the "on fences" portion of the language. Other Commissioners said  
41 they would like the language to remain. Chair Larson conducted a straw poll and most agreed to leave the  
42 language on fencing as it was in the draft.  
43

44 City Attorney Pratt summarized Section 5 which regulates the signs in residential multi-family zones. She  
45 asked for questions and there were none.  
46

47 City Attorney Pratt said Section 6 addresses signs in the BN and CC zones and as there were no questions,  
48 she then moved on to Section 7 and described an addition for the TC zone that didn't get discussed at the last  
49 meeting. Discussion of alternative language for Subsections 4 and 5 (18.52.070.H) were presented. Chair

1 Larson asked if Subsection 5 could be eliminated. Director Bennett replied and clarified which entrances are  
2 the pedestrian entrances and suggested that he and City Attorney Pratt could come up with some clarifying  
3 language to support this section.  
4

5 City Attorney Pratt summarized Section 8 addressing signs in the Southern Gateway zones. She asked if  
6 there were any questions and there were none.  
7

8 City Attorney Pratt summarized Section 9 addressing signage in the right of way. She highlighted the location  
9 and installation provisions. Chair Larson asked for clarification on Subsection 6 (18.52.080.A) and City  
10 Attorney Pratt responded with detail and explanation.  
11

12 City Attorney Pratt said that Section 10 talks about the permits and fees and that Section 11 addressed  
13 enforcement. She asked for any questions and there were none on either section.  
14

15 Chair Larson said that the Commission is ready to conduct a public hearing on the new sign regulations. She  
16 suggested having the hearing at the next meeting. Director Bennett said that he would prepare for the  
17 hearing to occur at the next regular meeting. Chair Larson said that the Commission should be prepared to  
18 have the public hearing at the next meeting and to formalize their recommendation to Council. Chair Larson  
19 asked if background can be provided for the public hearing and Director Bennett responded that a  
20 memorandum can be prepared in support of the hearing record.  
21

22 **New Business:**  
23

- 24 • *Reasonable Use Exception – Presentation on legal parameters, review*  
25 *process, and history of reasonable use exceptions in Lake Forest Park*

26 Chair Larson introduced the topic and indicated that it was a part of the Commission’s work plan for the  
27 year. She asked for the Commission to keep track of their questions for future meetings.  
28

29 City Attorney Pratt provided background on why the city has Reasonable Use Exception (RUE) rules. She  
30 said that the rule is used to prevent a taking under Washington State law. She explained the difference  
31 between physical takings and regulatory takings. She explained how a regulatory taking is applied and  
32 explained that if economic value is taken, the city can be liable. City Attorney Pratt said RUE rules are  
33 adopted to prevent regulatory takings. She presented the two types of RUE processes the City has and  
34 explained the difference between critical area RUE and exceptional tree RUE. She talked about what makes  
35 up the pre-hearing record in an RUE public hearing which is what the Planning Director uses to recommend  
36 an action to the Hearing Examiner. She explained the meaning of quasi-judicial and the application and  
37 decision-making structure in the code. City Attorney Pratt said the applicant has the burden of proof to show  
38 that their project complies with the criteria of approval for an RUE. She explained the criteria of approval for  
39 critical area RUE and explained how they are applied.  
40

41 Chair Larson asked how you determine how much mitigation is required. City Attorney Pratt responded and  
42 indicated that it is based on expert testimony. Chair Larson asked whose experts are relied upon. Director  
43 Bennett responded and said that both the applicant and the city can provide experts for testimony. Cmr.  
44 Kleweno said that the public should be responsible for bringing expertise to the hearing. Cmr. Cranmer  
45 asked what happens when the exception is granted. She asked if the Commission will be discussing the next  
46 steps. Director Bennett responded and indicated that the staff’s presentation should help answer that  
47 question.  
48

1 Senior Planner Nick Holland presented information on the RUE permit process and a case study of the  
2 Crane project. He said the Crane project was an application that required an exception from the tree  
3 regulations. He described the project and presented the approved site plan. He mentioned that the approved  
4 version of the site plan is significantly different than what was applied for and that the regulations and  
5 Hearing Examiner decision shaped what was approved.  
6

7 Chair Larson asked the Commissioners for any questions.  
8

9 Cmr. Lee asked how to appeal a hearing examiner decision. Director Bennett responded and said that  
10 County superior court handles appeal of hearing examiner decisions.  
11

12 Cmr. Cranmer asked if there was a threshold for the mitigation. Director Bennett responded that the hearing  
13 examiner relies on the expert testimony and then uses his judgement on what mitigation is appropriate.  
14

15 Cmr. Kleweno asked what direction the Commission is headed. Chair Larson responded that, at this point,  
16 the Commission is focused on the RUE process and all other issues will be discussed at future meetings.  
17 Chair Larson said that staff presentations will be provided and that the Commission should think about  
18 questions and potential changes to the process and RUE regulations.  
19

20 **Reports and Announcements**

21  
22 None from staff.  
23

24 **Additional Citizen Comments:**

25  
26 Julian Anderson thanked the Commission and staff for the discussion on the RUE topic. He said that the  
27 Crane project was something he was involved with. He said that the strength of the constitutional right for  
28 property privileges is something that shouldn't be overlooked. He said that LFP has a lot of environmental  
29 amenities. He said that he liked the flow chart and appreciated the effort by the planning department but that  
30 he sees a problem with the planning department giving advice to a potential developer. He said it is a fine  
31 line between a consultant for development and a defender of the code, which can be risky.  
32

33 **Agenda for Next Meeting:**

34  
35 Chair Larson said that she will be in contact with staff about the agenda for the next meeting. She asked  
36 Director Bennett if he had anything to add. Director Bennett responded and indicated that Planning  
37 Commission candidates will be interviewed prior to the next meeting.  
38

39 Dan Benson commented and said that Julian Anderson's comments triggered a thought about protecting a  
40 grove of trees. He said that if the RUE process is applied just to single lots, it may not account for the  
41 function of the critical area within the larger landscape.  
42

43 Chair Larson invited all to write to the Commission on any topic discussed.  
44

45 **Adjournment:**

46 Cmr. Hicks made a motion to adjourn the meeting, Cmr. Cranmer seconded, and the motion carried  
47 unanimously. The meeting was adjourned at 9:02 pm.  
48

49 APPROVED:

50 \_\_\_\_\_  
51 Maddy Larson, Chair  
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**DRAFT AMENDMENTS**  
**CHAPTER 18.52, SIGNAGE, LFPMC**  
**(June 14, 2022 Meeting Draft)**  
**Edits after May 10, 2022 PC meeting are highlighted**

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Section 1. AMEND . The City Council of the City of Lake Forest Park hereby amends section 18.52.020 LFPMC, Definitions, as follows:

**18.52.020 Definitions**

~~A. "Celebration displays" are temporary signs, banners, posters, fluttering devices, balloons, and pennants used solely for the purpose of announcing the opening of a new business, celebration of business anniversaries or announcing major sales. No balloon may exceed three cubic feet. No celebration shall commence prior to the start of the celebration. The notice shall specify the first and last days of the celebration.~~

A. "Animated sign" means any sign, or any portion of the sign, affected by the movement of air or other atmospheric or mechanical means, or that uses natural or artificial changes of lighting, to depict action or create a special effect or scene. Animated signs include, but are not limited to, flashing signs, inflatable signs, rotating signs, pennants, streamers, balloons, searchlights, spinners, and propellers.

B. "Awning or canopy sign" means a nonelectric sign that is printed on, painted on, or attached to the vertical surface or flap of an awning or canopy.

C. "Banner" means a sign composed of flexible material, such as fabric, pliable plastic, or other similar nonrigid material, with no enclosing framework or electrical components and that is supported or anchored on two or more edges or at all four corners, or along either one edge or two corners with weights installed that reduce the reaction of the sign to wind.

~~DB. "Changing message signs" are signs in which a change of message is made by means of moving or digitally changing monochromatic letters, or numbers, or a combinations thereof. Moving or digitally changing the letters or numbers does not make the sign an "animated sign," such as clocks and electronic signs indicating time, date and temperature. No messages other than date, time and/or temperature are permitted on changing message signs.~~

E. "Copy" means the graphic content of a sign surface, including, but not limited to, graphics, letters, numbers, figures, symbols, and trademarks.

F. "Exterior signs" means a wall sign, an awning sign or marquee sign, all of which have copy showing on only one side of the sign.



1 G. Electronic video signs. Signs that contain electronic video displays similar to or  
2 otherwise depicting a television screen.

3 ~~C. "Construction signs" are nonilluminated signs which identify the architects, engineers,~~  
4 ~~planners, contractors or other professional individuals or firms involved with a~~  
5 ~~construction or remodel project or which announce the character or purpose of a project~~  
6 ~~but which do not advertise any product.~~

7 ~~H.D. "Freestanding sign" means a sign standing directly on the ground or having one or~~  
8 ~~more supports standing directly on the ground, and being detached from any building or~~  
9 ~~fence.~~

10 I. "Illuminated sign" means a sign with an artificial light source incorporated internally or  
11 externally for illuminating the sign.

12 J. "Lawn sign" means a freestanding sign made of lightweight materials such as  
13 cardboard or vinyl that is supported by a frame, pole, or other support structure placed  
14 directly in the ground without foundation or other anchors.

15 ~~E. "Incidental signs" are signs of a noncommercial nature, without advertising, intended~~  
16 ~~primarily for the convenience of the public, that do not exceed a maximum area of two~~  
17 ~~square feet. Incidental signs include:~~

18 ~~1. Nonflashing signs designating street addresses, restrooms, hours of operation,~~  
19 ~~entrances and exits to buildings and parking lots, help wanted signs, bus stop and~~  
20 ~~bus route signs, public telephones and the like;~~

21 ~~2. Property control signs such as "no trespassing" signs, "no soliciting" signs,~~  
22 ~~towing signs, "no dumping" signs and the like;~~

23 ~~3. Plaques, tablets or inscriptions of an historical character which are an integral~~  
24 ~~part of a building or are attached flat to the face of a building, walkway or street;~~

25 ~~4. Newspaper boxes attached to mailbox posts which include the name of the~~  
26 ~~newspaper; and~~

27 ~~5. Temporary signs in RM and RS zones identifying noncommercial events such~~  
28 ~~as private picnics, birthdays and the like.~~

29 ~~A maximum of two incidental signs per business can include the names and/or logo of~~  
30 ~~the business. Political signs and commercial signs such as yard sale signs, real estate~~  
31 ~~signs and the like are subject to the specific provisions of this chapter relating to them.~~

32 ~~F. "Land use notice action signs" are signs notifying the public of proposed site~~  
33 ~~alterations and which are required to be posted.~~

1 ~~G. “Noncommercial identity signs” are signs which identify the city, parks, public utility or~~  
2 ~~service districts, places of worship, schools, community recreational clubs and areas~~  
3 ~~and residential communities within the city or provide public service, location or~~  
4 ~~educational information. Identity signs may not be directly illuminated but may have~~  
5 ~~indirect illumination on them. A noncommercial identity sign may not exceed 32 square~~  
6 ~~foot per side or have balloons, flags, festoons, pennants or the like attached. Such signs~~  
7 ~~must be placed upon the property which they identify except as provided in~~  
8 ~~LFPMC 18.52.040(A).~~

9 K. “Marquee sign” means any sign attached to or supported by a marquee, which is a  
10 permanent roof-like projecting structure attached to a building.

11 L. “Monument sign” means a freestanding sign having the appearance of a solid base  
12 that is 100 percent or greater of the sign face width, made of landscape construction  
13 materials such as brick, stucco, stonework, textured wood, tile, or textured concrete,  
14 which are harmonious with the materials of the primary structure on the subject  
15 property.

16 MH. “Off-premises signs” are any permanent sign, such as a billboard, pedestal, pole,  
17 monument, or marquee sign which displays a message which is not incidental to the  
18 current use of the property on which it is located.

19 N. “Pedestal sign” means freestanding signs supported permanently upon the ground  
20 by one or more solid bases, which base or bases shall be of a width equal to or greater  
21 than 50 percent of the sign width.

22 O. “Pole or pylon signs” means freestanding signs supported permanently upon the  
23 ground by one or more solid bases, which base or bases are less than 50 percent of the  
24 sign width.

25 P. “Temporary signs” means a sign that is not permanently affixed and that is designed  
26 for or capable of being moved, except those signs explicitly designed for people to carry  
27 on their persons or that are permanently affixed to motor vehicles. Temporary signs  
28 include, but are not limited to, sandwich board signs, lawn signs, and similar signs.

29 ~~I. “Open house signs” are signs of an A-frame or sandwich type construction, which~~  
30 ~~may include a real estate company’s name and logo and the words “open house” and~~  
31 ~~having a directional symbol, not exceeding six square feet in size.~~

32 ~~J. “Political signs” are signs which advertise or promote a political candidate(s) for public~~  
33 ~~elective office, promote a political party, or promote a position on a public issue or ballot~~  
34 ~~issue. A sign which advertises or promotes a negative position of a political candidate,~~  
35 ~~political party or public issue or ballot issue is a political sign.~~

1 ~~K. “Real estate signs” are temporary signs not to exceed six square feet per side, which~~  
2 ~~may be one or two sided, advertising the real estate upon which it is located, or a~~  
3 ~~portion thereof, for sale, lease or rent.~~

4 Q. “Right-of-way” means land owned, dedicated, or conveyed to the public and used  
5 primarily for the movement of vehicles, wheelchair, and pedestrian traffic, and land  
6 privately owned and used primarily for the movement of vehicles, wheelchair, and  
7 pedestrian traffic, so long as such privately owned land has been constructed in  
8 compliance with all applicable laws and standards for a public right-of-way.

9 ~~R.L. “Sandwich board signs” are temporary advertising signs constructed of two boards~~  
10 ~~or other flat-surfaced materials hinged or otherwise connected at one end (i.e., A-frame)~~  
11 ~~which may not exceed six<sup>42</sup> square feet per side and may not exceed four feet in~~  
12 ~~height. Balloons, flags, festoons, pennants, and the like may not be attached to any~~  
13 ~~sandwich board sign. Sandwich board signs must be placed on the ground; they cannot~~  
14 ~~be elevated or suspended above the ground.~~

15 ~~M. “Seasonal signs” means reasonable seasonal decorations of a noncommercial~~  
16 ~~nature within an appropriate holiday season or during a festival as long as such~~  
17 ~~seasonal signs are removed promptly at the end of the holiday season or festival.~~

18 SN. “Sign area” means the entire area of a sign on which copy is placed, excluding the  
19 sign’s structure, architectural embellishments, and framework. Sign area is calculated  
20 by measuring the perimeter enclosing the extreme limits of the sign face containing  
21 copy; provided, however, for letters or symbols painted or mounted directly on walls and  
22 awnings, sign area shall be calculated by measuring the smallest single rectangle which  
23 will enclose the combined letters and symbols. If a design or pattern is combined with  
24 a sign, only that part of the design or pattern which cannot be distinguished from  
25 the sign will be considered as part of the sign area. Sign area for freestanding signs and  
26 signs contained entirely within a cabinet and mounted on a wall, roof or monument shall  
27 be calculated by measuring the entire area of the cabinet. When calculating sign square  
28 footage, the measurement of a sign’s dimension shall be only with respect to its  
29 physical dimensions and not include the distance it hangs from the ground or the size of  
30 its supports.

31 TE. “Sign height” means the vertical distance, from the average level of the undisturbed  
32 soil at the base of the sign, measured to the highest point of the sign.

33 UP. “Signs” are any visible communication device, structure or fixture, stationary or  
34 mobile, including supporting and component parts, designed to announce, declare,  
35 demonstrate, display, or otherwise identify, advertise, or attract the attention of the  
36 public which are visible from any right-of-way, using graphics, letters, figures, symbols,  
37 trademarks, pennants, moving or fluttering devices, including balloons, or written copy.  
38 Flags, painted wall designs, or patterns which do not represent a product, commodity,  
39 service or registered trademark, and which do not identify the user, are not signs.  
40 Official notices and informational materials erected and maintained in the discharge of a

1 governmental function are not considered signs for the purposes of this chapter. ~~When~~  
2 ~~calculating sign square footage, the measurement of a sign's dimension shall be only~~  
3 ~~with respect to its physical dimensions and not include the distance it hangs from the~~  
4 ~~ground or the size of its supports. A memorial plaque or tablet, or cornerstones~~  
5 ~~indicating the name of a building and date of construction, when cut or carved into any~~  
6 ~~masonry surface or when made of bronze or other incombustible material and made an~~  
7 ~~integral part of the building or structure are not considered signs for the purposes of this~~  
8 ~~chapter.~~

9 ~~U. "Temporary sign" means any sign not permanently affixed or attached to the ground~~  
10 ~~or a structure.~~

11 ~~V. "Wall sign" means a sign applied with paint or similar substance on the surface of a~~  
12 ~~wall, a sign attached essentially parallel to and extending not more than 12 inches from~~  
13 ~~the wall of a building, or a sign attached to a roof gable of a building.~~

14 ~~W. "Window signs" mean all signs located inside and affixed to a window and intended~~  
15 ~~to be viewed from the exterior of the structure.~~

16 ~~Q. "Special event signs" are signs advertising the occurrence of a community event~~  
17 ~~such as a school bazaar, fundraising car wash, community picnic, etc. There are no size~~  
18 ~~limitations on special event signs. Yard sale signs are not special event signs.~~

19 ~~XR. "Street light banner" is a sign that is made of nonrigid material secured in a rigid~~  
20 ~~frame on all four corners which is placed upon or attached to a street light pole or utility~~  
21 ~~pole in a manner that does not create a traffic or other safety hazard.~~

22 ~~S. "Yard sale signs" are any signs which may not exceed six square feet on each of two~~  
23 ~~sides of a temporary nature advertising a garage or yard sale of personal belongings.~~  
24 ~~Home occupations permitted by this title may not utilize yard sale signs to advertise,~~  
25 ~~promote or sell their goods or services.~~

26 Section 2. AMEND . The City Council of the City of Lake Forest Park hereby  
27 amends section 18.52.030 LFPMC, Illegal signs and removal, as follows:

28 **18.52.030 ~~Prohibited~~legal signs and removal.**

29 A. General prohibition. Any sign not expressly provided for in this chapter shall be  
30 ~~prohibited~~legal. All ~~prohibited~~legal signs must be removed by the person or entity  
31 placing them or by the person, business or entity benefited by the ~~prohibited~~legal sign.  
32 Said persons or entities are also subject to enforcement proceedings under LFPMC  
33 18.52.100. ~~However,~~ The city of Lake Forest Park may remove any ~~prohibited~~legal  
34 sign within right-of-way its jurisdiction. ~~S~~igns so removed may be released to the sign  
35 owner or other responsible person upon payment of a \$25.00 removal fee. Removed  
36 signs which are unclaimed after 30 days may be destroyed by the city. Removal of a

1 ~~prohibited~~ ~~illegal~~ sign by the city does not relieve the person responsible for paying  
2 accrued fines ~~under LFPMC 18.52.100.~~ ~~therefor.~~

3 B. Specific prohibitions. Unless otherwise provided for in this chapter, no person shall  
4 erect, alter, maintain, or relocate any of the following signs in the City:

5 1. Any animated sign as defined in LFPMC 18.52.020.

6 2. Any electronic video signs as defined in LFPMC 18.52.020.

7 2. Any signs that emit smoke, visible particles, odors, and/or sound, except that  
8 sound from speakers in signs on the premises of a drive-through facility shall be  
9 allowed.

10 3. Any sign that is dangerous or confusing to motorists and pedestrians,  
11 including any sign that by its color, wording, design, location, or illumination resembles  
12 or conflicts with any official traffic control device or that otherwise impedes the safe and  
13 efficient flow of traffic.

14 4. No sign may impede free ingress and egress from any sidewalk, pedestrian  
15 walkway, door, window, or exit way required by building and fire regulations.

16 5. Portable signs on wheels (trailer signs) and outdoor electric portable signs.

17 6. Signs within public property, public easements or structures, including, but not  
18 limited to, medians, roundabouts, sidewalks, utility poles and cabinets, street light poles,  
19 traffic poles and signals, and street trees, except as allowed pursuant to LFPMC  
20 18.52.080.

21 7. Signs placed on or painted on a motor vehicle or trailer parked with the  
22 primary purpose of serving as a sign not otherwise allowed by this chapter.

23 8. Signs erected, constructed, or structurally altered that are required to have a  
24 permit for such action and that were erected, constructed, or altered without obtaining a  
25 permit for such action.

26 9. Off-premises signs.

27 Section 3. AMEND . The City Council of the City of Lake Forest Park hereby  
28 amends section 18.52.040 LFPMC, Exemptions, as follows:  
29

30 **18.52.040 Exemptions from permitting.**  
31

1 A. The following signs and sign related activities are exempt from obtaining a permit  
2 pursuant to 18.52.090 LFPMC, except as set forth in LFPMC ~~Error! Hyperlink reference not~~  
3 ~~valid., and except for signs in the right-of-way, exempt from regulation:~~

4  
5 1. Changes to the copy of changeable message signs, provided such changes do not  
6 change the material or appearance of the sign as originally permitted by the City.

7  
8 2. The normal repair and maintenance of conforming or legal nonconforming signs.

9  
10 3. Temporary signs with a sign area no greater than three square feet in area per side  
11 and no more than four feet in height that remain on the premises for less than 90 days  
12 in a one-year period.

13  
14 4. Any sign on a vehicle, unless such vehicle sign is prohibited pursuant to LFPMC  
15 18.52.030.

16  
17 ~~A. Incidental signs and noncommercial identity signs; provided, that noncommercial~~  
18 ~~identity signs which identify the city or its public parks may be placed in the public right-~~  
19 ~~of-way.~~

20  
21 ~~B. Political signs in all zones except public rights-of-way; provided, that all political signs~~  
22 ~~must be removed within five days of the election in which the political candidate or~~  
23 ~~public issue or ballot issue is decided; and provided further, that political signs~~  
24 ~~advertising or promoting a political party must be removed within five days after each~~  
25 ~~general election.~~

26  
27 ~~C. Seasonal signs.~~

28  
29 ~~D. Construction signs; provided, that there may not be more than one construction sign~~  
30 ~~on each public right-of-way upon which the project fronts and not more than two~~  
31 ~~construction signs in total; and provided further, that no construction sign shall exceed~~  
32 ~~12 square feet in area per side and not more than six feet in height. All construction~~  
33 ~~signs must be removed within one day of initial occupancy or one day of completion of~~  
34 ~~the project; whichever is the last to occur.~~

35  
36 ~~E. Land use action notice signs.~~

37  
38 ~~F. Exterior and interior signs or displays not intended to be visible from streets or public~~  
39 ~~rights-of-way, signs in the interior of a building not facing a window, window displays,~~  
40 ~~and point-of-purchase advertising displays such as vending machines.~~

41  
42 ~~G. Sculptures, fountains, benches, lighting, mosaics, landscaping and other street~~  
43 ~~furniture which do not incorporate advertising or identification.~~

44  
45 ~~H. Poles erected for the purpose of displaying patriotic flags and such flags.~~  
46

1 ~~I. Real estate and open house signs on private property; provided, that there may not be~~  
2 ~~more than one real estate sign and one open house sign on each public right-of-way~~  
3 ~~upon which the property fronts and not more than two real estate signs and two open~~  
4 ~~house signs on such property in total; and provided further, that no real estate sign or~~  
5 ~~open house sign shall exceed six square feet in area per side and not more than six feet~~  
6 ~~in height in RM and RS zones and 16 square feet in area per side and not more than six~~  
7 ~~feet in height in CC, BN and TC zones; and provided further, that all real estate signs~~  
8 ~~must be removed within five days of the property being closed, leased or rented, as the~~  
9 ~~case may be, and all open house signs must be removed by 7:00 p.m. of the last day~~  
10 ~~that the property is being shown.~~

11  
12 ~~J. Traffic and pedestrian signs and signals, signs required by law, street and~~  
13 ~~governmental directional signs, official public notices and governmental flags. Other~~  
14 ~~than as set forth, signs of governmental agencies and facilities, including the city of~~  
15 ~~Lake Forest Park, shall comply with this chapter.~~

16  
17 ~~K. Service, fraternal, religious and similar organizations located in the city may erect~~  
18 ~~signs at their cost at the entrances to the city as follows: there shall be one standard~~  
19 ~~jointly shared by all such subject organizations no higher than 10 feet that shall carry all~~  
20 ~~the signs for each subject organization at each principal arterial entrance, and each~~  
21 ~~subject organization's sign, emblem or symbol shall be no more than two square feet~~  
22 ~~per side in sign area. Placement of such standards must be approved in advance by the~~  
23 ~~city's engineer and by the planning director.~~

24  
25 Section 4. ADDITION . The City Council of the City of Lake Forest Park hereby add  
26 section 18.52.045 LFPMC, Temporary signs, as follows:

27  
28 **18.52.045 Temporary sign.**

29  
30 The following provisions apply to all temporary signs displayed within the City, unless  
31 otherwise provided in this chapter:

32  
33 A. Temporary signs must be placed totally within the site/property pursuant to the  
34 requirements of this chapter, except when allowed to be placed within the right-of-way  
35 under LFPMC 18.52.080.

36  
37 B. Temporary signs may be made of any durable material; provided, that the  
38 temporary sign otherwise conforms to the requirements of this chapter. A temporary  
39 sign may be of rigid or nonrigid construction.

40  
41 C. Except as otherwise provided for in this chapter, temporary signs are prohibited from  
42 being in the following places:

43  
44 1. on a roof of a building or structure,

45  
46 2. on fences,

1  
2 3. any location so as to physically obstruct any door or exit from a building,

3  
4 4. any location so as to be hazardous to a motorist's or pedestrian's ingress and  
5 egress from buildings or parking areas,

6  
7 5. in the sight-distance triangle, or in any other area which may obstruct the  
8 vision of motorists to create a safety hazard.

9  
10 D. Temporary signs shall not be directly or indirectly illuminated.

11  
12 E. Temporary signs driven into the ground shall be clear of tree roots, irrigation lines  
13 and other underground structures that could be damaged.

14  
15 F. Signs pertaining to an event, occasion, or similar occurrence with a beginning and/or  
16 ending date shall be removed within ten (10) calendar days after the ending date.

17  
18  
19 Section 5. AMEND. The City Council of the City of Lake Forest Park hereby  
20 amends section 18.52.050 LFPMC, Signs in RM and RS zones, as follows:

21  
22 **18.52.050 Signs in RM and RS zones.**

23  
24 In all Residential-multifamily and Residential single-family zones, the following sign  
25 regulations apply.

26  
27 A. All residences shall display the postal address of that property. The display may be  
28 lighted but not flashing and shall be clearly visible from the public right-of-way. If the  
29 display is to be placed upon the residence, the numbers must be no less than four  
30 inches in height and of a contrasting color to the residence.

31  
32  
33 B. Temporary signs are allowed that meet the following criteria:

34  
35 1. Signs no greater than three square feet in area per side and no more than four  
36 feet in height may remain on the premises indefinitely; there may be no more  
37 than five such signs on displayed on the premises at one time.

38  
39 2. Signs larger than allowed in the preceding paragraph, but no greater than six  
40 square feet in area per side and not more than four feet in height may remain  
41 displayed on the premises for no more than thirty (30) calendar days in any one-  
42 year period; and there may be no more than one sign of this size on the premises  
43 at any one time.



1 ~~Yard-sale signs on private property; provided, that yard-sale signs may only be erected~~  
2 ~~one day prior to the first day of the sale and must be removed within 24 hours of the end~~  
3 ~~of the last day of the sale; and provided further, that yard-sale signs to be held on any~~  
4 ~~property may not be posted for more than a total of six days per month.~~

5  
6 C. No home occupation otherwise permitted by this title may erect or post any sign  
7 advertising or promoting that home occupation.

8  
9 D. The following additional signs are permitted in the RM and RS zoned properties zone  
10 for nonresidential uses:

11  
12 1. One ~~Exterior wall sign, marquee sign, or awning sign,~~ lighted or unlighted,  
13 ~~nonflashing, on the outside wall of the main building, which shall be flat against~~  
14 ~~the wall and~~ have an area of not greater than 40 square feet.

15  
16 2. ~~One~~ A monument, pole, or pedestal, detached sign, lighted or unlighted,  
17 ~~nonflashing,~~ having an area not greater than 30 square feet per side and a sign  
18 height of not more than six feet on which both faces may be utilized. Such signs  
19 must be securely mounted on the ground on which they rest. On corner lots, one  
20 such sign may be placed facing each street.

21  
22 3. One changing message sign that is included within one sign allowed by  
23 subsection D.1 or D.2 above.

24  
25  
26 ~~E. Fluttering signs, including balloons, festoons, pennants and flags (other than official~~  
27 ~~flags of political entities and a single flag identifying the project or owner), and off-~~  
28 ~~premises signs are prohibited; provided, that such fluttering signs are permitted on~~  
29 ~~temporary incidental signs in RM and RS zones identifying noncommercial events such~~  
30 ~~as private picnics, birthdays and the like.~~

31  
32 ~~F. Churches are permitted to attach readerboard signs to their outside walls and to~~  
33 ~~place sandwichboard type signs on their property on days of service.~~

34  
35 ~~G. For any zone, the city shall determine the square footage of a sign that is painted on~~  
36 ~~or attached directly to a wall, roof, monument, or support column by its sign area as~~  
37 ~~defined herein. Where a sign is limited to square feet, on one or both sides, square~~  
38 ~~footage shall be determined by sign area.~~

39  
40 Section 6. AMEND. The City Council of the City of Lake Forest Park hereby  
41 amends section 18.52.060 LFPMC, Signs permitted in CC and BN zones, as follows:

42  
43  
44 **18.52.060 Signs permitted in CC and BN zones.**  
45

1 In Neighborhood Business (BN) and Corridor Commercial (CC) zones, the following  
2 sign regulations apply.

4 A. In BN zones, two ~~single-faced or one double-faced wall~~ Exterior signs are, marquee  
5 sign, pole sign, or pedestal sign is permitted, not to exceed a total of 60 square feet per  
6 sidesign; ~~attached to the building wall and advertising the business conducted therein,~~  
7 ~~or the goods and services available therein.~~

8 B. In the CC zone, for each street or parking lot on which a business fronts, one Exterior  
9 a single-faced wall sign on the exterior wall, gable or awning fronting e for that business  
10 is permitted (Exterior Sign). If the exterior sign is on the exterior wall, its size must be  
11 the lesser of: (1) 150 square feet per side; or (2) the greater of that amount in square  
12 footage which is a factor of eight tenths (0.8) of that business' linear street or parking lot  
13 frontage or 75 square feet per side; provided, that stand-alone buildings in the CC zone  
14 are entitled to signs of not more than 75 square feet per side irrespective of linear  
15 frontage; and provided further, that businesses which occupy in excess of 20,000  
16 square feet of space may have a single exterior sign of not more than 250 square feet  
17 per side on each street or parking lot frontage. If the exterior sign is on a gable or  
18 awning, its size must be less than 40 square feet. Signage entitlements under the  
19 foregoing sentence for any frontage may not be counted for entitlement on any other  
20 frontage. Businesses that share space must share signage entitlements under this  
21 provision.

22 C. In both CC and BN zones, one monument sign, pole sign or pedestal  
23 sign freestanding, single-faced or one double-faced sign not exceeding 30 square feet in  
24 area per side and a sign height not exceeding 20 feet is permitted, securely fastened to  
25 the ground.

26 D. In both CC and BN zones, one changing message sign is permitted that is included  
27 within one sign allowed by subsections A. – C. above.

28 E. In both CC and BN zones, one temporary sandwich board signs may be placed on  
29 the business' property that meet the following criteria: advertising special sale  
30 commodities or services and displayed only when the advertised business is open for  
31 business.

32 1. size shall not exceed six square feet in area per side and not more than four  
33 feet in height;

34  
35 2. signs shall remain displayed on the premises for no more than 60 calendar  
36 days in a one-year period; and

37  
38 3. no more than two such sign shall be displayed on the premises at any one  
39 time.

1 F. In both CC and BN zones, signs of any kind in windows viewable from any public  
2 right-of-way may not cover more than 50 percent of the window area ~~except for~~  
3 ~~celebration displays.~~

4 ~~G. For automobile service stations, a single freestanding fuel price and fuel brand~~  
5 ~~identification sign, which may be lighted but nonflashing, securely anchored to the~~  
6 ~~ground. Additional advertising of car wash services and other fuels sold may be added~~  
7 ~~to the fuel price and fuel brand identification sign but no other message or device may~~  
8 ~~be attached to the fuel price and fuel brand identification sign.!!~~

9 ~~G.H. All signs permitted by this section shall be nonflashing, with no movement or~~  
10 ~~simulated movement, except for changing message signs, and shall be located as not~~  
11 ~~to produce glare on neighboring residential properties or interfere with traffic, traffic~~  
12 ~~signals or traffic signs.~~

13 ~~I. Fluttering signs, including balloons, festoons, pennants and flags (other than official~~  
14 ~~flags of political entities and a single flag identifying the project or owner) of a~~  
15 ~~permanent nature are prohibited. However, in CC zones, celebration displays are~~  
16 ~~permitted for periods of no more than 14 consecutive days and a total of four times a~~  
17 ~~year. Celebration displays must be used at the site of the business and must be~~  
18 ~~removed at the end of the event or 14 consecutive day period, whichever is shorter.~~

19 ~~J. Off-premises signs are prohibited.~~

20 Section 7. AMEND. The City Council of the City of Lake Forest Park hereby  
21 amends section 18.52.070 LFPMC. Signs permitted in TC zone, as follows:

22  
23  
24 **18.52.070 Signs permitted in TC zones.**

25  
26 The ~~planned shopping center in the~~ TC zone is a unique and visible community  
27 resource ~~and structure~~. It is the city's desire that signs in the ~~planned shopping center in~~  
28 ~~the~~ TC zone be aesthetically pleasing, architecturally cohesive ~~with the planned~~  
29 ~~shopping center in the TC zone and with signs of other tenants in the planned shopping~~  
30 ~~center in the TC zone~~, of superior construction, safe for both pedestrian and vehicular  
31 traffic and commercially reasonable.

32  
33 A. In the TC zone, for each street or parking lot on which a business fronts, one  
34 Exterior a single faced sign on the exterior wall, gable or awning sign fronting ~~of that~~  
35 business is permitted ("Exterior Sign"). If the exterior sign is on the exterior wall, its size  
36 must be the less of (1) 150 square feet per side or (2) the greater of that amount in  
37 square footage which is a factor of eight tenths (0.8) of that business' linear street or  
38 parking lot frontage or 75 square feet per side; provided, that stand-alone buildings in  
39 the TC are entitled to signs of not more than 75 square feet per side irrespective of  
40 linear frontage; and provided further, that businesses which occupy in excess of 20,000  
41 square feet of space may have a single exterior sign or not more than 250 square feet

1 per side on each street or parking lot frontage. If the exterior sign is on a gable or  
2 awning, its size must be less than 40 square feet. Signage entitlements under the  
3 foregoing sentence for any frontage may not be counted for entitlement on any other  
4 frontage. Businesses that share space must share signage entitlements under this  
5 provision.

6  
7 B. For businesses that do not front either a right-of-way or parking lot, one  
8 Exterior sign per such business shall be allowed. If the exterior sign is on an exterior  
9 wall, its size must be seventy-five (75) square feet or less. If the exterior sign is on a  
10 gable or awning, its size must be less than forty (40) square feet.

11  
12 CB. Each business in the TC zone may have nonilluminated projecting signs  
13 hanging from the soffits but each such sign must provide a minimum of seven feet of  
14 clearance from the underlying walkway to the bottom of the sign and no such sign may  
15 exceed five square feet per side.

16  
17 DC. Each business in the TC zone may have a nonilluminated awning on which  
18 may be placed signs for that business so long as the total area of those signs does not  
19 exceed 45 percent of the facing of the awning.

20  
21 ED. Signs of any kind in windows viewable from any public right-of-way may not  
22 cover more than 50 percent of the window area ~~except for celebration displays.~~

23  
24 FE. A ~~planned~~ shopping center in the TC zone may display up to two  
25 freestanding ground signs, not in excess of 25 square feet in area per side, identifying  
26 the name of the shopping center but not the businesses located therein at Northeast  
27 175<sup>th</sup> and Ballinger Way Northeast, plus one nonilluminated freestanding ground sign at  
28 or near Northeast 175<sup>th</sup> and Ballinger Way Northeast, not to exceed a sign height of 10  
29 feet and 60 square feet in area per side identifying the businesses located therein, plus  
30 a single illuminated <sup>or</sup> nonilluminated freestanding sign at the main entrance off Bothell  
31 Way Northeast, not to exceed a sign height of 30 feet and not more than 300 square  
32 feet in area per side, which may include identities of one or more of the businesses  
33 located in the shopping center. Any nonilluminated sign permitted in this subsection  
34 may, notwithstanding the foregoing, be illuminated by one or more separate light(s) cast  
35 on it from the ground below. The ground signs shall be of a style, material and design  
36 as are compatible with the associated buildings. All ground signs and support elements  
37 are to be integrated into a single design.

38  
39 GF. Entrances to buildings in the ~~planned shopping center in the~~ TC zone may  
40 have ~~a changing message readerboard~~ signs placed on the walls adjacent to the  
41 entrance wall or support columns not to exceed 13.5 square feet identifying only the  
42 businesses in that building. Such changing message Readerboard signs shall be limited  
43 to two per major public entrance.

44  
45 H. Temporary signs that meet the following criteria are allowed on the premises:

Commented [KAP1]: Highlighted language edited to eliminate need to repeat "on the premises" in H.

1 1. a sign does not exceed six square feet in area per side and is not more than  
2 four feet in height;

3  
4 2. signs remain displayed on the premises for no more than 60 days in any one-  
5 year period;

6  
7 3. signs shall only be displayed during the hours the business is open to the  
8 general public, but in any event no earlier than dawn and no later than dusk;

9  
10 4. one temporary sign is allowed per business at each vehicular entrance to the  
11 lot on which it is located, or if located in a shopping center, at each vehicular entrance to  
12 the shopping center;

13  
14 5. one temporary sign is allowed per business at each pedestrian entrance  
15 adjacent to right-of-way for the lot on which the business is located; or if located in a  
16 shopping center, at each pedestrian entrance adjacent to right-of-way for the shopping  
17 center;

18  
19 6. if the number of signs at a vehicular or pedestrian entrance is impeding free  
20 movement or causing a safety issue, the City may remove the problematic sign(s)  
21 without prior notice to the business owner.

22  
23 ~~G. For automobile service stations, a single freestanding fuel price and fuel brand~~  
24 ~~identification sign, which may be lighted but nonflashing, securely anchored to the~~  
25 ~~ground. Additional advertising of car wash services and other fuels sold may be added~~  
26 ~~to the fuel price and fuel brand identification sign but no other message or device may~~  
27 ~~be attached to the fuel price and fuel brand identification sign.~~

28  
29 ~~I.H. All signs permitted by this section shall be nonflashing, with no movement or~~  
30 ~~simulated movement, except for changing message signs, and shall be located as not~~  
31 ~~to produce glare on neighboring residential properties or interfere with traffic, traffic~~  
32 ~~signals or traffic signs.~~

33  
34 ~~I. Fluttering signs, including balloons, festoons, pennants and flags (other than~~  
35 ~~official flags of political entities of a permanent nature) are prohibited. However,~~  
36 ~~celebration displays are permitted for periods of no more than 14 consecutive days and~~  
37 ~~a total of four times a year. Celebration displays must be used at the site of the~~  
38 ~~shopping center and must be removed at the end of the event or 14 consecutive day~~  
39 ~~period, whichever is shorter.~~

40  
41 ~~J. Off-premises signs are prohibited~~

42  
43 ~~K. Temporary sandwich board signs relating to a farmer's market may be~~  
44 ~~permitted for a period not to exceed the operation of the farmer's market, subject to the~~  
45 ~~following requirements:~~

**Commented [KAP2]:** Highlighted language was edited per discussion at 5/10/22 PC meeting. The intent is to clarify what a business on a single lot may do versus a business in the shopping center may do.

**Commented [KAP3]:** Highlighted language was edited to clarify what a business on a single lot may do versus a business in the shopping center, and to clarify that the intent is pedestrian entrances from right-of-way, not pedestrian entrances internal to the shopping center.

1           1. Signs shall only be displayed during the hours the farmer's market is open to  
2 the general public, but in any event no earlier than 8:00 a.m. or later than 7:00 p.m. on  
3 the day of the market;

4           2. A maximum of two signs are allowed at each vehicular entrance of the town  
5 center zone, not to exceed a total of seven; and one sign is allowed at the pedestrian  
6 entrance at the perimeter of the parking lot adjacent to Bothell Way Northeast and  
7 Ballinger Way Northeast;

8           3. Signs shall not be directly or indirectly illuminated;

9           4. Signs may not block sidewalks or driveways, impede pedestrian or vehicular  
10 traffic, or create a hazard to traffic, such as, but not limited to, impeding visibility of  
11 oncoming traffic.

12  
13           JL. Streetlight banners may be permitted upon the private light poles within the  
14 TC town center zone. Such streetlight banners ~~may not be used to advertise individual~~  
15 ~~businesses, but may be used year-round to highlight seasonal events such a farmer's~~  
16 ~~market, holiday seasons or other special events within the town center zone~~ are subject  
17 to compliance with the following requirements:

18  
19           1. Banners may be mounted on a total of 25 streetlight poles;

20  
21           2. Two banners may be mounted on each pole and each banner must not  
22 exceed the dimensions of two feet by four feet;

23           3. All banners must be the same size, thematically consistent, and mounted in  
24 identical configurations;

25           4. Banners shall be installed with the bottom of the banner a minimum of 10 feet  
26 above the ground;

27           5. A banner permit may remain valid as long as the locations and the  
28 specifications of the banners and the mounting systems do not change, and so long as  
29 the banners are maintained in good condition;

30           6. Application requirements for a banner permit include:

31  
32           a. Information on the design and construction of the mounting system including  
33 any engineering calculations demonstrating the mounting system will support the  
34 banner;

35           b. Identification of the location of the private light poles on which the banners will  
36 be placed; and

37           c. A schedule that indicates when banners will be installed and changed, ~~which~~  
38 ~~gives preference to farmers' market banners during the farmers' market season.~~

39  
40           Section 8. ADDITION. The City Council of the City of Lake Forest Park hereby  
41 adds section 18.52.075 LFPMP, Signs in Southern Gateway zones.

42  
43           18.52.075 Signs in Southern Gateway zones.

1  
2 A. Signs in the Southern Gateway – Single-family residential zone are governed by  
3 this chapter and specifically LFPMC 18.52.050 for RM and RS zones.

4  
5 B. Signs in the Southern Gateway - Corridor zone and Transition zone are governed  
6 by this chapter and specifically LFPMC 18.52.070 for the TC zone, as well as the  
7 southern gateway – corridor and transition zones design guidelines. In the event  
8 of a conflict, the design guidelines shall govern.  
9

10 Section 9. AMEND. The City Council of the City of Lake Forest Park hereby  
11 amends section 18.52.080 LFPMC, Signs in the public right-of-way, as follows:  
12

13 **18.52.080 Signs in the public right-of-way.**  
14

15  
16 ~~A. The following signs are permitted in the public right-of-way, except as prohibited in~~  
17 ~~18.52.030, in Lake Forest Park upon making application for a permit to the planning~~  
18 ~~director; provided, that no sign in a public right-of-way shall create a traffic or other~~  
19 ~~safety hazard; and temporary signs are permitted upon meeting the following~~  
20 ~~conditions:~~  
21

- 22 1. signs shall not be placed in medians, traffic islands, roundabouts, or other  
23 areas within the roadway;
- 24 2. signs shall not be placed on a sidewalk or obstruct pedestrian or wheelchair  
25 access to the sidewalk;
- 26 3. on right-of-way that only have a shoulder and do not have a sidewalk, signs  
27 must be placed so that they do not interfere with pedestrian, wheelchair,  
28 bicycle access, or in any other manner that is unsafe for all users;
- 29 4. signs shall be placed entirely outside of the sight-distance-triangle of a right-  
30 of-way corner, curb-cut, or drive entrance and where no curb exists, the sign  
31 must be placed outside the roadway at least five feet from the edge of the  
32 roadway;
- 33 5. signs shall remain unanchored in any way to trees or to public property  
34 including, but not limited to, utility or light poles, utility boxes, street signs,  
35 parking meters, fences, or pavement;
- 36 6. no more than six (6) signs may be displayed city-wide in the right-of-way for  
37 the same event, occasion, or purpose, or by the same entity, at any one time;
- 38 7. A sign exempt from permitting by section 18.040 LFMPC because it is no  
39 greater than three square feet in area per side and no more than four feet in  
40 height shall be displayed for thirty (30) days or less in any one-year period,  
41 unless a permit is obtained.
- 42 8. A signed allowed by permit may not exceed six (6) square feet in area per  
43 side and not more than four (4) feet in height, and shall be displayed for sixty  
44 days (60) days or less in any one-year period.  
45  
46

Commented [KAP4]: Highlighted language edited per discussion at 5.10.22 PC meeting.

1 ~~1. Special Event Signs. A maximum of four special event signs may be posted for~~  
2 ~~a maximum of seven days prior to the event's commencement and upon such other~~  
3 ~~conditions as may be imposed by the planning director. Special event signs must be~~  
4 ~~removed within 24 hours of the termination of the special event.~~

5  
6 ~~B. The following signs are permitted in the public right-of-way in Lake Forest Park~~  
7 ~~without a permit being required:~~

8  
9 ~~1. Yard Sale Signs. A maximum of two yard sale signs may be posted for a~~  
10 ~~maximum of two days prior to the event's commencement and upon such~~  
11 ~~other conditions as may be imposed by the planning director. Yard sale signs~~  
12 ~~shall be removed within 24 hours of the termination of the yard sale.~~

13  
14 ~~2. Real Estate Open House Signs. A maximum of four open house signs per~~  
15 ~~property advertised for a period not to exceed two consecutive days in a~~  
16 ~~calendar month. Such open house signs shall be placed at least three feet~~  
17 ~~from the traveled portion of the right-of-way, shall not be placed on an island,~~  
18 ~~median strip or sidewalk, and shall not create a hazard to traffic. Open house~~  
19 ~~signs shall be permitted to be in place only between the hours of 8:00 a.m.~~  
20 ~~and 7:00 p.m.~~

21  
22 ~~3. Political Signs. Political signs; provided, that all political signs must be~~  
23 ~~removed within five days of the election in which the political candidate or~~  
24 ~~public issue or ballot issue is decided.~~

25  
26 ~~4. Churches may place sandwich-type signs concerning their service on~~  
27 ~~sidewalks on the days of their service.~~

28  
29 ~~G. Signs shall not be located in the right-of-way or placed upon or in any way attached~~  
30 ~~to any street or traffic control sign or utility pole in such a manner as to create a traffic or~~  
31 ~~other safety hazard.~~

32  
33 ~~B.D. Signs are not permitted on other city-owned property or property leased by the city~~  
34 ~~for public purposes such as public parks, trails, open space, or other public space,~~  
35 ~~except those signs placed by the City, which signs shall only display noncommercial~~  
36 ~~copy, without the permission of the city.~~

37  
38 Section 10. AMEND. The City Council of the City of Lake Forest Park hereby  
39 amends section 18.52.090 Permit application and fee.

40  
41 **18.52.090 Permit application and fees.**

42  
43 A. Except as provided in the chapter, no person shall erect, alter, or relocate any sign  
44 without first receiving an approved sign permit from the City pursuant to the  
45 requirements herein. All applications for issuance of permits required by this chapter  
46 shall be made to the planning director on forms furnished for that purpose and shall be



1 accompanied by the required fee. The applicable fee shall be as provided in the city's  
2 fee schedule. ~~The application shall include the applicant's full name, address, signature,  
3 location of the signs, types of goods proposed to be sold if applicable, duration of sale if  
4 applicable, together with such other information as the planning director deems  
5 appropriate.~~

6  
7 B. The review and approval of sign permits is a ministerial administrative decision  
8 pursuant to Chapter 16.26 LFPMC, as amended.

9  
10 C. Application Form.

11  
12 1. Owner permission. If the applicant is not the property owner, then the property owner  
13 must be identified and the application must include an affidavit from the property owner,  
14 verifying that the property owner has given permission to the applicant for the  
15 submission of the sign permit application and for the installation/posting of the sign on  
16 the property owner's property.

17  
18 2. Building Elevation/Site Plan. Signs proposed to be mounted on a building require a  
19 building elevation drawn to scale that specifies the location of the sign and drawings or  
20 photographs that show the scale of the sign in context with the building. Freestanding  
21 signs require a site plan indicating the proposed sign location as it relates to property  
22 lines, adjacent streets, and adjacent buildings.

23  
24 3. Scaled Design Drawing. A colored rendering or scaled drawing, including dimensions  
25 of all sign faces, and descriptions of materials to be used, including color samples.

26  
27 4. Scaled Installation Drawing. A scaled drawing that includes the sign description,  
28 proposed materials, size, weight, a manner of construction, and method of attachment,  
29 including all hardware necessary for proper sign installation.

30  
31 5. Lighting. A drawing indicating the location and fixture type of all exterior lighting for  
32 the proposed sign. The drawing shall specify wattage and bulb type to ensure  
33 compatibility with the lighting standards in this chapter.

34  
35 6. Expiration of Permit. A permanent sign approved under a permanent sign permit  
36 must be installed within 180 days of issuance of the permit or the sign permit will  
37 expire. No sign may be erected if a sign permit has expired.

38  
39 Section 11. AMEND. The City Council of the City of Lake Forest Park hereby  
40 amends section 18.52.100, Violations.

41  
42  
43 **18.52.100 EnforcementViolations.**

44  
45 ~~A. A violation of LFPMC 18.52.080 shall be an infraction subject to a fine of \$100.00 a~~  
46 ~~day or portion thereof,~~

1 ~~AB~~. A violation of any ~~other~~ section of this chapter shall be a civil infraction subject to a  
2 fine of \$25.00 a day or portion thereof, and subject to code enforcement pursuant to  
3 Chapter 1.25 LFPMC.

4 Section 12. SEVERABILITY. Should any portion of this ordinance, or its  
5 application to any person or circumstance, be declared unconstitutional or otherwise  
6 invalid for any reason, such decision shall not affect the validity of the remaining  
7 portions of this ordinance or its application to other persons or circumstances.

8  
9 Section 13. CORRECTIONS. The City Clerk is authorized to make necessary  
10 corrections to this ordinance including, but not limited to, the correction of  
11 scrivener's/clerical errors, references, ordinance numbering, section/subsection  
12 numbers and any references thereto.

13  
14 Section 14. EFFECTIVE DATE. This ordinance shall take effect five (5) days  
15 after passage and publication.

16  
17 **APPROVED BY A MAJORITY** of the Lake Forest Park City Council this [click](#)  
18 [here to enter day of month.](#) [day of](#) [Click here to enter month.,](#) 2022.

19  
20 APPROVED:

21  
22  
23 \_\_\_\_\_  
24 Jeff Johnson  
25 Mayor

26  
27 ATTEST/AUTHENTICATED:

28  
29  
30 \_\_\_\_\_  
31 Matthew McLean  
32 City Clerk

33  
34 APPROVED AS TO FORM:

35  
36  
37 \_\_\_\_\_  
38 Kim Adams Pratt  
39 City Attorney

40  
41 Introduced: \_\_\_\_\_  
42 Adopted: \_\_\_\_\_  
43 Posted: \_\_\_\_\_  
44 Published: \_\_\_\_\_  
45 Effective: \_\_\_\_\_

**BEFORE the HEARING EXAMINER for the  
CITY of LAKE FOREST PARK**

**DECISION**

FILE NUMBER: 2016-REU-0001

APPLICANT: Jeremiah Johnson  
3212 NE 167<sup>th</sup> Street  
Lake Forest Park, WA 98155

TYPE OF CASE: Reasonable Economic Use Exception to reduce Category II wetland and Type 3 stream buffer requirements for construction of a single-family residence

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: GRANT subject to conditions

DATE OF DECISION: April 17, 2017

**INTRODUCTION**<sup>1</sup>

Jeremiah Johnson (“Johnson”) filed a Reasonable Economic Use Exception (“REU”) application pursuant to Chapter 16.26 Lake Forest Park Municipal Code (“LFPMC”) on April 1, 2016. (Exhibit 2<sup>2</sup>) The Lake Forest Park Department of Planning and Building (“Planning”) deemed the application to be complete on or before March 13, 2017. (Exhibit 8.01)

The subject property is located at 177XX 28<sup>th</sup> Avenue NE.

The Lake Forest Park Hearing Examiner (“Examiner”) viewed the subject property on April 11, 2017.

The Examiner held an open record hearing on April 11, 2017. Planning gave notice of the hearing as required by the LFPMC. (Exhibits 8.02 – 8.06)

Subsection 16.26.040(F)(1) LFPMC requires land use entitlement permit decisions to be issued within 120 net review days. The open record hearing was held subsequent to the 120<sup>th</sup> net review day. (Exhibit 1) “Any

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<sup>1</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

<sup>2</sup> Exhibit citations are provided for the reader’s benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner’s Decision is based upon all documents in the record.

period excluded by agreement of the city and the applicant” is not counted in the 120-day period. [LFPMC 16.26.040(F)(2)(d)] Johnson waived any irregularities in the review period timing. (Testimony)

Testimony under oath was presented by:

David Walton  
Mike Dee

Andrea Flower

Exhibits were offered and admitted during the hearing, a list of which is maintained by the Hearing Clerk.

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner’s knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

### FINDINGS OF FACT

1. Approximately seven and one half years ago the undersigned Examiner granted a REU on exactly the same parcel to another applicant for nearly the same proposal as now put forth by Johnson: Construct a single-family residence with a maximum building footprint of 30’ x 40’ (1,200 square feet (“SF”)) on King County Tax Account Parcel 4024100370 (“Parcel 0370”). (Exhibits 2; 13: RU08-02; Eric & Nancy Gorbman (“Gorbman”), applicants; Decision issued November 16, 2009) That REU approval expired three years later without ever having been used. (Exhibit 13.15, Condition 2) Johnson now seeks a similar REU.

The subject property has not changed appreciably since the Gorbman Decision was issued. Therefore, much of what was said about Parcel 0370 in the Gorbman Decision remains applicable and will be largely restated herein.

The Gorbman 2008 application was

a “generic” REU application in which [Gorbman was] “a little vague.” (The second quotation is from Mr. Gorbman’s testimony.) Their application [was] necessarily vague because they [had] no intention of building a single-family residence on the subject lot. Their intent [was] to sell the lot to someone who [would] then build a house on the subject lot. Therefore, they [had] no idea what the actual size or shape of a house on this lot would be.

(Exhibit 13.09, Conclusion of Law 3, ¶ 1)

The Johnson application, on the other hand, is not “generic”: Johnson has a specific house plan which he wants to build on Parcel 0370. (Exhibit 16)

HEARING EXAMINER DECISION

RE: 2016-REU-0001 (Johnson)

April 17, 2017

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2. Parcel 0370 is undeveloped except for an overgrown access driveway (with a 16-foot long culverted crossing of a roadside water course) and remnants of an old house foundation. The house was demolished more than 35 years ago. (Exhibits 13, Finding of fact 1; 16.01)

Johnson desires to construct a 30' x 40', three-story, single-family residence on Parcel 0370. His proposal sites the residence parallel with and 15 feet south of the north property line and approximately 114 feet west of the near edge of the 28<sup>th</sup> Avenue NE right-of-way. A 12-foot wide driveway off 28<sup>th</sup> Avenue NE will be constructed within the north 20 feet of Parcel 0370 utilizing the existing culverted crossing. A two-car garage will be built into the residence's ground floor; a hard-surfaced 21-foot wide maneuvering area will be provided in front of the residence. The proposed residence will be in the same general area as was the old, demolished residence and as was Gorbman's proposed "generic" residence. (Exhibits 1; 6.04; 16)

3. Parcel 0370 is a near-rectangle measuring 104 feet wide by 411 feet deep at its deepest. It contains 0.96 acres. It is a through lot, extending from 28<sup>th</sup> Avenue NE on the east to 25<sup>th</sup> Avenue NE on the west. (Exhibits 13, Finding of Fact 2; 15; 16)

The subject lot is zoned RS-20. The surrounding area is dominated by single family residences and vacant, forested lots zoned RS-20 or RS-9.6. (Exhibits 4; 13, Finding of Fact 2)

The minimum lot area and street frontage in the RS-20 zone are 20,000 SF and 75 feet, respectively. [LFPMC 18.16.030 and .040, respectively] The minimum allowed building setbacks (measured from the property lines) are: 20 feet front; five feet sum of 15 feet side; and 20 feet rear. [LFPMC 18.16.060]

Uses permitted as a matter of right in the RS-20 zone are single-family residences (including manufactured housing), home occupations, accessory buildings/structures, accessory dwelling units, signs, and "Type I" day care facilities. <sup>3</sup> [LFPMC 18.16.010] Uses permitted in the RS-20 zone subject to compliance with conditional use requirements are Type II day care facilities, multi-use trails, and public and private community facilities. [LFPMC 18.16.020 and Chapter 18.54 LFPMC]

4. The western 100 – 170 feet of the subject lot contains east aspect slopes of 40% and greater. The elevation drop across that distance from the subject lot's 25<sup>th</sup> Avenue NE frontage is approximately 60 feet. (Exhibits 6; 13, Finding of Fact 3; 15)

Slopes in excess of 40% with a vertical rise of at least 10 feet are regulated as steep slope hazard areas by the City's Environmentally Critical Areas ordinance, Chapter 16.16 LFPMC. <sup>4</sup> [LFPMC 16.16.040(W)(1)] Essentially, the code requires preservation of the steep slope, preservation of a 50

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<sup>3</sup> A "Type I" daycare facility must be located within a single-family residence. [LFPMC 18.08.270]

<sup>4</sup> The City amended Chapter 16.16 LFPMC by Ordinance No. 1150, effective March 19, 2017. One amendment changed the chapter's title from Environmentally Sensitive Areas to Environmentally Critical Areas. Chapter 16.16 LFPMC, as amended, applies in the review of this application. Planning's Staff Report does not mention or consider the amended regulations. (Exhibit 1)

foot wide buffer around the slope, and a 15 foot building setback from the edge of the buffer. [LFPMC 16.16.310]

The 50 foot wide buffer may be administratively reduced to not less than 25 feet by Planning in certain circumstances. [LFPMC 16.16.310(A)] Johnson has not requested that Planning reduce the steep slope buffer.

Recent geotechnical review of the western steep slope concludes that it is “globally stable in its present condition” and that Johnson’s proposal “will not adversely impact the overall stability of [Parcel 0370] or surrounding properties.”<sup>5</sup> (Exhibit 6, pp. 6 and 7)

The steep slope and its required buffer completely encumber the western half of the subject lot. (Exhibit 16.01)

5. Two Type Ns streams (seasonal, non-fish bearing) pass through or adjacent to Parcel 0370.<sup>6</sup> One (Stream A) flows southerly past the lot within the roadside ditch west of 28<sup>th</sup> Avenue NE. Stream A crosses under 28<sup>th</sup> Avenue NE a short distance to the south. The other Type Ns stream (Stream B) arises near the top of the western slope, fed by water flowing from the west, uphill of 25<sup>th</sup> Avenue NE. Stream B flows across the northwest quarter of Parcel 0370, across the lot to the north, and joins Stream A at the roadside ditch a short distance north of Parcel 0370. Streams A and B are tributary to Meadow Creek, which is a tributary to McAleer Creek.<sup>7</sup> McAleer Creek is salmonid habitat. (Exhibits 5; 13, Finding of Fact 4)

Type Ns streams are regulated by Chapter 16.16 LFPMC. Essentially, the code requires preservation of the stream, preservation of a 50-foot wide buffer along the stream, and a 15-foot building setback from the edge of the buffer.<sup>8</sup> [LFPMC 16.16.355(A) and (G)]

The 50 foot wide buffer may be administratively reduced by 25 percent by Planning in certain circumstances. [LFPMC 16.16.355(B)]

The required Stream B buffer encumbers much of the northwest quarter of the subject lot. The Stream A buffer encumbers approximately the east 45 feet of the subject lot. (Exhibits 10; 16.01<sup>9</sup>)

6. Two Category II wetlands exist on the subject lot.<sup>10</sup> Wetland A is located along the eastern property line and extends off-site to the edge of 28<sup>th</sup> Avenue NE. Wetland B is located near the center of the property along the south property line, situated just east of the base of the western steep slope.

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<sup>5</sup> A geotechnical report was not available during the 2009 Gorbman hearing process. [Official notice]

<sup>6</sup> Type Ns streams were classified as Type 3 streams under the prior version of Chapter 16.16 LFPMC. [Official notice]  
<sup>7</sup> By way of Hillside Creek and Brookside/Sheridan Creek.

<sup>8</sup> Type 3 streams required a 35-foot wide buffer under the prior version of Chapter 16.16 LFPMC. [Official notice] The prior, smaller stream buffer requirement is shown on all record documents.

<sup>9</sup> The exhibits were prepared before Chapter 16.16 LFPMC was adopted and depict the old buffer requirement.

<sup>10</sup> Wetland categories were identified by Arabic numerals rather than capitalized Roman numerals in the prior version of Chapter 16.16 LFPMC. [Official notice]

Wetland B extends onto the adjoining lot to the south. Its hydrology is derived mostly from hillside seeps. Both are forested wetlands, although Wetland A has some areas which have been grazed in the past, and both exhibit moderate functional values. Both have been overrun by Himalayan blackberry and other invasive species. (Exhibits 5; 13, Finding of Fact 5; 16.01)

Category II wetlands are regulated by Chapter 16.16 LFPMC. Essentially, the code requires preservation of the wetland, preservation of a buffer around the wetland of between 75 and 225 feet depending upon the wetland's habitat score, and a 15-foot building setback from the edge of the buffer. <sup>11</sup> [LFPMC 16.16.320]

The width of required buffers may be administratively averaged by Planning in certain circumstances. [LFPMC 16.16.320(D)]

Wetland A and its required buffer encumber at least the entire eastern half of the subject lot. Wetland B and its required buffer encumber at least the entire center of the property, extending from near the western boundary to within at least 50 feet of the eastern boundary and from the south to the north boundaries, substantially overlapping the Wetland A buffer. The Wetland B buffer also overlaps most of the steep slopes and the buffers for Stream B and the steep slopes. (Exhibits 10; 16.01)

7. The required steep slope, stream, and wetland buffers encumber the entirety of the subject lot: No portion of the lot lies outside all of those critical areas and their buffers. (Exhibits 10; 16.01) Even if the maximum administrative reductions were to be requested and granted, the entire lot would still be encumbered by critical areas and their buffers.
8. Johnson has sited his requested 1,200 SF rectangular building footprint such that it is parallel with the north and south property lines with its long axis following the long axis of Parcel 0370, just as was proposed by Gorbman. When a 15-foot wide construction impact area is drawn around the proposed footprint to allow for a cantilevered second-floor deck, patio, lawn, etc., the entire area covers 4,200 SF and abuts the north property line. The driveway construction impact area along the north property line covers an additional 1,760 SF. The 5,960 SF that would be available for development represents approximately 14% of the subject lot. (Exhibits 13, Finding of Fact 7; 16)

The driveway would use the existing culverted Stream A crossing. State Hydraulic Project Approval is not required to renew the driveway over the existing culvert. (Exhibits 13, Finding of Fact 7; 16)

The construction impact area comes to within about 8 feet of Wetland A and to within about 21 feet of Wetland B. The construction impact area is wholly outside the steep slope buffer. The construction impact area extends into the required buffer for Stream B. (Exhibit 16.01)

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<sup>11</sup> Category 2 wetlands required a standard 100 foot buffer under the prior version of Chapter 16.16 LFPMC. The recent amendments to Chapter 16.16 LFPMC are based upon a new state wetland rating system. Required buffer widths now depend upon the Habitat score portion of that rating system. [Official notice] The Critical Areas Study for Parcel 0370 was prepared in 2009, long before the new rating system was developed. It does not provide Habitat scores. Therefore, the required buffer width under the current, new system cannot be stated with any certainty.

The Gorbmans chose the same building envelope location for five reasons: 1) It “avoids all impacts to wetlands, streams, and steep slopes”; 2) It coincides generally with the location of the former residence and allows use of the existing driveway and stream culvert; 3) It provides greater distance from the streams “which are more dynamic systems and could meander”; 4) It preserves a vegetated wildlife corridor connecting the environmentally critical areas through the lot; and 5) It “is the only portion of this 0.96-acre site that would not result in impacts to wetlands, streams, or steep slopes, or greater impacts to buffers.” (Exhibit 13, Finding of Fact 7)

9. The City adopted new Tree Canopy Preservation and Enhancement regulations, effective March 19, 2017, which repealed and replaced Chapter 16.14 LFPMC. [Ordinance No. 1152] Johnson’s application is subject to the new regulations. The new regulations require issuance of a special permit before most tree removal may occur. Clearing must preserve a minimum tree canopy coverage, the amount of which depends upon several factors. When the required canopy coverage cannot be met with existing trees, replacement trees must be planted. [Chapter 16.14 LFPMC] The canopy coverage goal for Parcel 0370, based upon its size and zoning, is 58%. [LFPMC 16.14.070(A), Table 2] Removal of trees within critical areas and their required buffers is prohibited except in four circumstances, one of which is where removal is authorized by a permit issued under Chapter 16.16 LFPMC. [LFPMC 16.14.080(A)(4)]
10. Approximately 17 significant trees will have to be removed to develop the site as proposed. Five native trees will have to be planted to achieve the 58% canopy coverage standard. (Exhibits 7<sup>12</sup>; 15; 16.01)
11. Johnson proposes to mitigate disturbance of 5,960 SF of the site by enhancing 3,470 SF of degraded wetland and 8,450 SF of degraded buffer. Invasive species would be removed; extensive overstory and understory plantings of native species would be planted within the enhancement areas. Johnson proposes to replace the 17 significant trees that will be removed with 51 conifers located within the buffer enhancement area. A five-year monitoring plan is proposed to assure success of the enhancement plantings. (Exhibit 5)
12. Johnson will be required to follow the standard requirements of the 2016 King County Surface Water Design Manual (“Design Manual”) in handling surface water runoff. (Exhibit 1.5) The City has adopted the Design Manual as its drainage standards. [LFPMC 16.24.010(B)] The record contains insufficient information to determine whether pervious pavement ( as required in the 2009 Gorbman Decision) could be successfully employed in the proposed driveway because of the poor drainage conditions of the native soil. (Exhibit 12)
13. Areas downstream along Hillside and McAleer Creeks flooded during storm events in or before 2009. An abutting pair of prior RUEs a short distance to the south along the west side of 28<sup>th</sup> Avenue NE, whose sites are also tributary to Hillside and McAleer Creeks, were proposed as and conditioned to require a “zero discharge” building design. A pervious, shared driveway was proposed and

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<sup>12</sup> Exhibit 7, an arborist’s report, was not available during the Gorbman hearing process. [Official notice]



required [RU07-01 (Allison) and RU07-02 (Ellis-Drain), Hearing Examiner Decision issued February 19, 2008]. (Exhibit 13, Finding of Fact 11)

14. Johnson's application is categorically exempt from the State Environmental Policy Act ("SEPA") threshold determination process pursuant to WAC 197-11-800. <sup>13</sup> (Exhibit 9; and testimony)
15. The 2009 Gorbman approval was subject to 12 conditions, several imposed because of the "generic" nature of the Gorbman proposal. (Exhibit 13, Conclusions of Law 3 – 9 and Conditions 1 – 12) Among the more significant of those conditions were: Condition 1 which required that the "generic" building footprint be moved closer to the north property line and not extend more than 50 feet south of the north property line, and which required that any garage be contained within the basic 1,200 SF footprint; and Condition 5 which required storm drainage control to seek a "zero runoff" solution. (Exhibit 13.15)

Johnson has submitted a detailed argument in support of not shifting the building footprint closer to the north property line as was required in the 2009 Gorbman Decision. (Exhibit 17) Because of the built-in garage, the house will be a slab-on-grade structure. If the house were moved closer to the north property line, additional grading would be required because of the sloping conditions in that area and the concrete foundation wall along a portion of the north side of the house would have to be higher and double as a retaining wall, thus negatively affecting the floor plan of the residence. Johnson's wetland consultant believes that the reduction in buffer from the two wetlands caused by keeping the residence 15 feet from the north property line "will have no appreciable impact on the overall level of functions and values provided by the subject wetlands and buffers." (Exhibit 17.02) In fact, the consultant believes that wetland functions and values will be improved with the mitigation as proposed. (*Ibid.*)

16. Planning recommends approval of the requested REU subject to 11 conditions. (Planning withdrew its Recommended Condition 1 during the hearing, thus there are 11 recommended conditions.) (Exhibit 1, pp. 7 and 8) The 11 recommended conditions are not all the same as the 2009 conditions. (Cf. Exhibit 13 with Exhibit 1)
17. Prior to Planning's withdrawal of Recommended Condition 1, Johnson objected to that condition. (Testimony)

Johnson asked for clarification of Recommended Condition 8. Planning stated that the split-rail fence required by that condition was required after completion of construction, with only a temporary construction barrier fence required during construction. Johnson accepts Recommended Condition 8 with that clarification. (Testimony)

18. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

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<sup>13</sup> Gorbman's 2008 application went through the SEPA threshold determination process. (Exhibit 13, Finding of Fact 12) Planning testified in this hearing that it used to be overly cautious when determining what proposals were categorically exempt from SEPA. It also noted that exemption thresholds have been increased since 2009. (Testimony)

## LEGAL FRAMEWORK<sup>14</sup>

The Examiner is legally required to decide this case within the framework created by the following principles:

### Authority

A REU is a Type I application, which is subject to an open record hearing before the Examiner who makes a final decision on the application. The Examiner's decision is subject to the right of reconsideration and appeal to Superior Court. [LFPMC 16.26.030(A), .100, and .110 and Hearing Examiner Rule of Procedure 504]

A Type I application that complies with the applicable decision criteria shall be approved; provided, that the examiner may modify or condition a proposal to ensure conformity with the relevant decision criteria.

[LFPMC 16.26.110(A)]

### Review Criteria

The review criteria for a REU are contained in LFPMC 16.16.250:

A. If the application of [Chapter 16.16 LFPMC] will prevent any reasonable economic use of the owner's property, then the applicant may apply to the planning department for an exception from the requirements of [Chapter 16.16 LFPMC]; may be applied for in accordance with the provisions of Chapter 16.26 LFPMC.

B. ...

C. The hearing examiner shall grant an exception only if:

1. Application of the requirements of [Chapter 16.16 LFPMC] will deny all reasonable economic use of the property; and

2. There is no other reasonable economic use with less impact on the critical area; and

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 [Chapter 16.16 LFPMC] and the comprehensive plan; and

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

D. The hearing examiner shall grant an exemption [*sic*] from the requirements of [Chapter 16.16 LFPMC] only to the minimum necessary extent to allow for reasonable economic use of the applicant's property.

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<sup>14</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

E. The hearing examiner shall condition any exception from the requirements of [Chapter 16.16 LFPMC] upon conditions recommended by the city and upon compliance with any mitigation plan approved by the city.

F. For any in-water or wetland work it is the applicant's responsibility to obtain all state and federal approvals before beginning work.

### Vested Rights

The City does not have a vested rights provision within its land development regulations. The state's judicially-created vested rights doctrine has never been applied to applications which seek exception from the established rules (such as Variances, REUs, and Public Agency Utility Exceptions).

### Standard of Review

The standard of review is preponderance of the evidence. The Applicant has the burden of proof.

## **CONCLUSIONS OF LAW**

1. Section 16.16.250 LFPMC is expressly designed to provide a mechanism through which critical areas regulations may be relaxed in certain situations. The key or threshold criterion is the first one: That the critical areas regulations would "deny all reasonable economic use of the property". The REU concept is designed to avoid a "regulatory taking" by relaxing the restrictive regulations just enough that a property owner may make a reasonable economic use of his/her/its property. Such a "relief valve" is routinely found in all municipal sensitive areas regulations for just that reason.
2. In fact, the REU process is the critical areas equivalent of the zoning code variance, a process which has existed in all zoning codes since land use regulation by zoning in the United States began in the early 1920s. It is well established law that approval of one variance does not establish precedent for approval of any other variance: Every variance application is evaluated on its own merits to determine if it meets established approval criteria.

The same holds true for REU applications: Approval of one does not establish precedent for approval of any other REU application. However, where REU application properties exhibit similar physical features, are located in the same neighborhood, are within the same drainage basin, and embody similar requests (to construct a single-family residence on an existing lot), it only stands to reason that such applications should be treated more similarly than dissimilarly. It further stands to reason that if an application is essentially a "re-do" of a previously approved application, the new decision should be essentially the same as the prior decision unless the law or the facts have changed.

3. Johnson's application, as did Gorbman's 2008 application, meets approval Criterion (C)(1). The hearing record shows without any question or doubt that the subject lot is rendered completely unusable by the combination of wetland, steep slope, and stream protection areas, their buffers, and their associated buffer building setback areas. This conclusion is even more true now than in 2009 since wetland buffers are potentially greater now than then. Not one square inch of the subject lot is

free from those restrictions. If Chapter 16.16 LFPMC is strictly enforced, the lot is completely unusable. It is for just such circumstances that the REU process was established.

4. Johnson's application, as did Gorbman's 2008 application, meets approval Criterion (C)(2). This criterion relates to the nature of the proposed use; the suitability of the size, configuration, and location of the proposed use is the subject of Criteria (C)(3) and (C)(4) and will, therefore, be addressed later. The question here is whether any other reasonable use, allowed by the zoning code, would have a lesser impact on the sensitive areas. The range of permitted and conditional uses in the RS-20 zone is quite limited. All but one of the permitted uses explicitly or inherently require construction of a single-family residence. The one that doesn't (signs) would not be a logical, reasonable use: The limitations on signs are such that the only sign that could be erected on the subject lot in the absence of a single-family residence would be a "For Sale" sign. [LFPMC 18.52.050] That would not be a reasonable economic use. Type II day care facilities and public/private community facilities would, by definition, be larger than a single-family residence and would thus be expected to have a greater impact. No reasonable, allowed use would have a lesser impact on the sensitive areas.
5. Johnson's application meets approval Criterion (C)(3). The requirement here is that the proposal not "pose an unreasonable threat to public health, safety, or welfare". The adjective "unreasonable" is the key. The regulation does not require that the proposal have absolutely no impact on the sensitive areas.<sup>15</sup>

The proposal, like Gorbman's 2008 application, includes steps to minimize public safety and welfare concerns. The driveway is located in the one place where it can use the existing culverted crossing and not have to cross a wetland; a stand-alone garage is not requested; the building footprint and its surrounding construction impact area are located such that they do not intrude at all into the steep slope buffer. Since the geotechnical report indicates that the slope has "evidence of slope creep on the steeper portions of the site," development should not be allowed to intrude into the slope or its buffer in view of the fact that sufficient non-slope-sensitive area exists on Parcel 0370. (Exhibit 6.08)

In 2009 the Examiner argued that the driveway could be completely pervious, thus not creating additional runoff and that a "zero discharge" stormwater control system could be designed for the site. Those conclusions were reached without the benefit of a geotechnical study of the site. Such a study was done in 2016. (Exhibit 6) Based on that study, the Examiner concludes that his 2009 conclusions in this regard were overly optimistic. Such mandates might not be able to work on Parcel 0370. The City has a brand new, much more modern set of drainage regulations in place now. Compliance with those regulations will provide sufficiently for the public safety and welfare in the area of storm drainage control.

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<sup>15</sup> State appellate courts have recognized that it is a practical impossibility to have human development without some adverse impact to the physical environment.

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6. Johnson's application meets approval Criterion (C)(4). This is the criterion which addresses size of the proposed use. Initially, it must be noted that Johnson does not request permission to build within or on any of the critical areas themselves; the proposal lies wholly within critical area buffers. The proposal will not eliminate wetland habitat; it will eliminate wetland buffer habitat.

Impact on the sensitive area buffers is measured more by footprint than by total livable area.<sup>16</sup> A residence with a 30' x 40' footprint would not be atypical for Lake Forest Park. Moving the building closer to the north property line would require more excavation and not appreciably improve wetland impact conditions. The proposed building footprint will meet the 2009 Decision's requirement that its south edge not be more than 50 feet from the north property line: The south wall of Johnson's foundation will be 45 feet from the north property line. In addition, Johnson proposes extensive mitigation for the reduced wetland/stream buffers. On balance, the Examiner concludes that the current proposal represents minimum relief.<sup>17</sup>

7. Johnson's application meets approval Criterion (D). This criterion is a restatement of Criterion (C)(4). Further discussion is unnecessary.

8. Revision to/amendment of the Planning-recommended conditions is authorized by LFPMC 16.16.250(E) and 16.26.110(A) and justified by the preponderance of the evidence in the hearing record.

A. None of the recommended conditions expressly identify the specific plans being approved. All interested persons benefit when the permit specifically identifies the project plans being approved. A condition will be added which will cite Exhibit 16 as the approved plans.

B. Recommended Condition 1. The Examiner concurs that this condition should be eliminated.

C. Recommended Condition 2. The intent of the portion regarding a potential "membrane" not being permitted on the deck is not clear. After much discussion during the hearing, the Examiner understands that Planning's intent is to prevent placement of a solid floor covering over the cantilevered deck. The wording will be revised to make that intent more clear.

D. Recommended Condition 5. Three changes will improve this condition. First, the word "sensitive" needs to be replaced with "critical" in light of the recent LFPMC amendments.

Second, the use of the phrase "building setback lines" in the last sentence of this condition could be confusing. The intent here is that the areas outside of construction impact areas must be set aside as a critical areas tract. The wording will be so revised.

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<sup>16</sup> At least at the scale involved here. The Examiner would agree that if we were comparing a single-family residence with a 20 story apartment building with the same footprint size, the impact of the apartment building on sensitive areas would likely be greater, if for no other reason that the tremendously larger volume of cars that would be associated with a 20 story apartment.

<sup>17</sup> This conclusion does not mean that no other design or footprint might also represent minimum relief.

Third, the narrow (about 3' – 4' wide) strip between the north edge of the driveway construction impact area and the north property line would make an awkward critical areas tract because of its narrow width and isolation from the main critical areas tract. The condition will be revised such that that strip need not be included within the critical areas tract. (It would still lie outside the construction impact area, however, and thus be subject to construction impact restrictions.)

- E. Recommended Condition 7. Part of this condition merely reflects mandatory requirements of the LFPMC and requirements adopted pursuant thereto; part of it does not. Therefore, it will be retained.
  - F. Recommended Condition 8. Mandatory code provisions need not be imposed as if they were special permit conditions. However, where the code provides options or discretion, permit conditions must choose the option or exercise the discretion. The fencing requirement is within Planning's discretion under LFPMC 16.16.170(C). Recommended Condition 8 is needed to document exercise of that option by Planning. The wording will be revised to bring it into alignment with the terminology used elsewhere in the LFPMC and the Decision. Additional revisions will be made to clarify the condition's intent as explained during the hearing.
  - G. Subsection 16.14.080(A)(4) LFPMC bars removal of trees within a critical area or its required buffer unless authorized by a permit issued pursuant to Chapter 16.16. LFPMC. This REU is just such a permit. A condition must be added allowing trees to be removed within the construction impact area.
9. As previously stated, it is reasonable to expect that a nearly identical application on the same parcel with unchanged conditions and essentially unchanged regulations should result in essentially the same outcome. Several of the 2009 conditions need not be conditions of the current approval, however. Former Conditions 5, 7, and 8 are not needed because of new or changed regulations which adequately address the matters covered by those conditions. Former Condition 6 has been rolled into new Recommended Condition 4. Former Condition 10 has been rolled into new Recommended Condition 9.
10. Subsection 16.16.250(F) LFPMC is a mandatory regulatory requirement, not an approval criterion. Mandatory regulatory requirements need not be imposed as conditions of approval.
11. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

## DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner hereby **GRANTS** the Reasonable Economic Use

Exception application under file number 2016-REU-0001 **SUBJECT TO THE ATTACHED CONDITIONS.**

Decision issued April 17, 2017.

\s\ John E. Galt (Signed original in official file)

John E. Galt  
Hearing Examiner

### **NOTICE OF RIGHT OF RECONSIDERATION**

This Decision is subject to the right of reconsideration pursuant to Hearing Examiner Rule of Procedure 504. Reconsideration may be requested by the applicant, appellant, a party of record, or the City. Reconsideration requests must be filed in writing with the City Clerk within seven (7) calendar days of the date of mailing of this Decision. Any reconsideration request shall specify the error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the hearing conducted by the Examiner which forms the basis of the request. Any reconsideration request shall also specify the relief requested. See Hearing Examiner Rule of Procedure 504 for additional information and requirements regarding reconsideration.

### **NOTICE OF RIGHT OF APPEAL**

This Decision becomes final and conclusive as of the eighth calendar day after the date of mailing of the Decision unless reconsideration is timely requested. If reconsideration is timely requested, the Examiner's order granting or denying reconsideration becomes the final and conclusive action for the City. The final action may be reviewed in Superior Court pursuant to the procedures established by Chapter 36.70C RCW, the Land Use Petition Act. Section 36.70C.040 RCW requires that any appeal be properly filed with the Court within 21 days of the issuance of the final City Decision. Please refer to Chapter 36.70C RCW for further guidance regarding judicial appeal procedures.

<p>The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."</p>
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### **CONDITIONS OF APPROVAL 2016-REU-0001 JOHNSON**

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This Reasonable Economic Use Exception 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. Exhibit 16 shall be the approved development plan for this Reasonable Economic Use Exception. The “construction impact area” mentioned in the following conditions shall be the area within the dashed lines labeled as “PROP BUILDING ENVELOPE AND 15’ BSBL” on Exhibit 16.01.
2. A cantilevered deck may be constructed within the construction impact area as depicted in Exhibit 16, PROVIDED that a notice on title must state that the deck flooring must be spaced boards/slats to allow water to pass through, that solid surface flooring is not allowed on the deck, and that the area beneath the deck may not be enclosed.
3. The site plan is valid for a period of three years from the date of approval.
4. The Permittee must apply for and receive all necessary permits from the Department of Planning and Building prior to commencing any clearing, tree removal, or construction.
5. Prior to issuance of development permits by the City, the property owner shall provide documentation indicating that the critical areas preservation tract has been recorded with King County as required by LFPMC 16.16.180. The critical areas preservation tract must contain all areas within the property which are located outside of the construction impact area, PROVIDED that the narrow strip between the north edge of the driveway construction impact area and the north property line need not be included within the critical areas tract.
6. All work must comply with the City’s adopted standards for development and construction, including, storm water mitigation, erosion control, zoning and building.
7. Prior to issuance of any clearing and grading permits: A) The Permittee shall provide a temporary erosion control plan; B) the Permittee shall submit for review and approval all clearing and grading plans, engineering construction drawings, and other site improvement plans; and (C) Bonds must be in place for the mitigation.
8. Split-rail wood fencing and approved signage is required to delineate between the critical area tract and the construction impact area. The split-rail fencing and signage shall be installed after completion of construction. Standard protective construction fencing shall be installed and maintained during construction to delineate the outer boundary of the construction impact area. Only work associated with the buffer impact mitigation plan and, if required, drainage control may occur outside of the construction impact area.
9. Prior to the final inspection of the residence, the critical area and buffer mitigation plan (Exhibit 5) shall be implemented by the Permittee/property owner and be found to be correctly implemented by City staff and/or City Arborist.



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10. The mitigation area shall be subject to the annual monitoring plan specified in Exhibit 5. Monitoring is required for five consecutive years subsequent to the final inspection of the residence. If any of the mitigation plan is not successful, the Permittee/property owner will address the issue immediately as described in Exhibit 5.
11. Prior to occupancy of the structure, the Permittee must provide the City with a signed copy of the written contract with a qualified professional who will perform the monitoring program, with bond amounts reflective of then current pricing.
12. The Permittee is responsible for obtaining any necessary state and federal permits and approvals for the project, and is responsible for complying with any conditions of approval placed on these or other state or federal permits or approvals, and for submitting revised drawings to the City for its review and approval, if necessary, to reflect these state or federal conditions of approval.
13. Trees may be removed within the construction impact area as required for safe and effective construction of the residence. Trees dangerously overhanging the driveway may also be removed as may diseased or hazardous trees within a reasonable distance of the residence. Any additional tree removal is subject to the requirements of Chapter 16.14 LFPMC. Trees planted as part of the buffer impact mitigation plan may also count towards required tree canopy coverage if they are of a species and size to qualify for that purpose.