
From: Tom Hanson <Tom.hanson@ARBORINFO.COM>
Sent: Friday, June 15, 2018 4:16 PM
To: Lauren Hoerr
Subject: 2018 RUE 0001 Crane Reasonable Use Application

Follow up
Flagged

I have reviewed File 2018-RUE-0001 for parcel 4019301515 and the three options presented there in. Option 2 that indicates a root zone encroachment of 16.6% seems most reasonable both from the stand point of providing a good driveway access and minimal disturbance to the root zone. That extent of root zone disturbance is well within best management practices for Douglas-fir root zone disturbance. I suggest the use of permeable concrete and minimal depth excavation for the driveway. A certified arborist should be on site during the excavation in the event that exceptionally large roots are encountered.

Tom Hanson
2406 N. Castle Way, Brier, Wa
Certified Arborist 23136
Registered Consulting Arborist 499

From: Timothy Hohn <timothyhohn64@gmail.com>
Sent: Wednesday, July 11, 2018 7:46 AM
To: Lauren Hoerr
Subject: Reasonable Use Permit 2018-RUE-0001

11 July 2018

To: Lake Forest Park Planning Department

From: Timothy Hohn
18923 Forest Park Drive NE
Lake Forest Park WA 98155

Re: Reasonable Use Exception
File Number: 2018-RUE-0001
Proponent: Steve Crane
Location of proposal: Parcel # 4019301515

I am writing to urge the city of Lake Forest Park to reject the application for Reasonable Economic Use submitted by Stephen Crane for the parcel 401930-1515 on 178th St.

I understand that the last notification regarding development of this property garnered a large number of letters from community members in opposition to the proposal. I suspect that those community members, myself included, in opposition to this project feel that this zone RS-15 section of town is fully developed. City density goals have been met. There is no justification for allowing this exemption. The owners of the property were aware of the property's status when they purchased it. The motivation for this decision seems driven by tax revenue on the city's part and profits on the landowner's. The satisfactions that come from living in Lake Forest Park are derived from the pleasing balance of development and green space that makes it unique among suburban communities in the greater Seattle area. This application, and the attendant issues surrounding non-conforming properties and exceptional trees, is inappropriate to the progressive pattern of development and preservation articulated in much of our city code.

Regarding the particulars of the Crane application, it seems that the property was purchased in the cynical belief that lack of due diligence in regard to the concerns of the neighbors and the codes and developmental laws of the city will not stand in the way of development for maximum profit. The applicant has proceeded carelessly and mistakenly with all aspects of this process in selfish disregard of the issues and requirements. A perfect example of this overall approach was the careless destruction of a large raptor nest in one of the exceptional trees without adequate inspection for evidence of the type of nesting bird. In addition, this was also done with the perverse intent to prevent its further use contrary to the wildlife enhancement that is held in high regard by the neighbors and most citizens of Lake Forest Park. Finally, this perversity extends to the intent to devalue the tree containing the nest—as if to pretend it was never there and of no concern. I refer to this tree as exceptional because, although it was a fraction under the measurement for that designation a few months ago, it is now sure to have surpassed it with this Spring's new growth—it should be double-checked in conforming to the intent of the code and as part of a precautionary practice to retain exceptional trees whenever possible.

I'm certain that other concerned neighbors will point out the many flawed technicalities associated with this application regarding positioning of the structure, the locations of the proposed utilities and driveways, mistakes made in documenting the exceptional trees present, the bizarre handling of the raptor nest, and other details of this proposed development that should be taken into consideration. I think I speak for all concerned that a project of this nature, particularly in this section of Lake Forest Park, should never have come under consideration in the first place. I ask the city to recognize that this is NOT "reasonable use" and to continue to enforce codes that protect our city's beautiful balance of restrained development and environmental preservation. This application and its intent define and outline an iconic array of development issues and problems that we must change in moving toward a sustainable community.

Thank you for the opportunity to contribute to this process.

Sincerely,

Timothy Hohn

Lauren Hoerr

From: Lauren Hoerr
Sent: Tuesday, July 03, 2018 4:24 PM
To: 'Robert Anderson'
Subject: RE: 2018-RUE-0001 (Crane) Public Comment

Hi Robert,

Thank you for submitting your public comment. I have included your email below and the arborist report you submitted as a public comment and it is now part of the official record for 2018-RUE-0001. Your comment will be reviewed by the Planning Department and the Hearing Examiner.

I will also add you to our list as parties of record for 2018-RUE-0001. Please feel free to call or visit during permit counter hours (9-12 and 1-3 each weekday) if you would like to discuss your concerns further.

Please feel free to let me know if you have any questions.

Best,
Lauren

Lauren Hoerr
Assistant Planner
Planning & Building Department

17425 Ballinger Way NE
City of Lake Forest Park, WA
206-957-2837
www.cityoflfp.com



Disclaimer: This email is considered a public record and may be subject to public disclosure.

From: Robert Anderson <anderrm@uw.edu>
Sent: Monday, July 02, 2018 2:25 AM
To: Lauren Hoerr <lhoerr@ci.lake-forest-park.wa.us>; Lauren Hoerr <lhoerr@ci.lake-forest-park.wa.us>
Subject: 2018-RUE-0001 (Crane) Public Comment

To the City of Lake Forest Park, Planning Department and Hearing Commissioner,

As a neighbor and concerned citizen, I am writing to urge the city of Lake Forest Park to reject the application for Reasonable Economic Use submitted by Stephen Crane for the parcel 401930-1515 on 178th St. His application fails to demonstrate that reasonable economic use of the property requires removing the exceptional tree on the property, and I believe that the city's tree code should prevail to protect the tree.

It is more than possible to build a single-family residence on this lot – a reasonable economic use - without cutting down or even affecting this exceptional tree. Mr. Crane's application states, "a new home needs a driveway and a side sewer." I live in a house on the same street which has no driveway to the house, only off-street parking. Such a situation is not uncommon in the neighborhood, and is perfectly acceptable to many residents/potential buyers. I hope the reviewers of this application will remember that the code only calls for "reasonable" economic use, and not for maximizing the profit that can be extracted through development. As a number of concerned citizens, including myself, have previously noted, Mr. Crane purchased this property last year without doing any research into the neighborhood, or the city's tree code or its development laws, with the explicit goal of turning it around for a maximum profit. It is not in the city's interest to abet profit-oriented development in destroying our urban forest under the guise of "reasonable" use. There are plenty of ways that this property could be developed with both economic use and environmental protection – for example, a house with street parking rather than driveway access.

In terms of the sewer connection, Mr. Crane mentions that "there was no affirmative agreement" with the east neighbor. I have seen no evidence that Mr. Crane made any good-faith effort to reach such an agreement. As a neighbor on the other side, my experience is that he has not made any effort to contact neighbors, has trespassed illegally on my property, and has attempted to exploit loopholes in city code to move his project forward despite the significant concerns of neighbors and city planners. Under such circumstances, of course the neighbors are not inclined to work with him. I have no doubt that an agreement could be reached if Mr. Crane were willing to make a good faith effort at a reasonable negotiation, and to compensate neighbors appropriately for their accommodations to his project.

Finally, I hope that the city will also remember the context of this application. Mr. Crane proposes to remove not only this exceptional tree, but also every other tree of significance on the lot, reducing canopy cover on the lot dramatically. One of these trees is another Douglas fir that misses the threshold to be considered "exceptional" by a mere fraction of an inch. Cutting down these two old-growth trees would be a dramatic loss for the neighborhood and the city. Mr. Crane has already removed the osprey nest that was previously located in the second fir, destroying their essential habitat in order to prevent the birds from returning, which would trigger tree protection from WDFW. He got approval from WDFW for that nest removal with an application that falsely claimed that the city had already approved the removal of the tree – effectively playing one regulatory agency off of the other to reduce hurdles in the way of his development.

In short, Mr. Crane is trying to exploit every possible way to get around city and state environmental regulations, in order to squeeze every possible bit of profit from this property. I ask the city to recognize that this is NOT "reasonable use" and to continue to enforce the tree code that protects our city's beautiful natural environment.

Sincerely,

Robert Anderson

17586 Ballinger Way Ne, Lake Forest Park

On Sat, Jun 16, 2018 at 12:02 AM, Lauren Hoerr <lhoerr@ci.lake-forest-park.wa.us> wrote:

To whom it may concern:

You are receiving this email because you are a party of record in the 2018-TREE-0007, meaning that you either provided public comment(s) during the comment period for the Notice of Application for 2018-TREE-0007 related to Mr. Crane's property on 4611 NE 178th St and/or requested to be a party of record for 2018-TREE-0007. The Planning Department wanted to provide you with the following update.

Attached is a Notice of Application for a Reasonable Use Exception (2018-RUE-0001) that gives a brief overview of the proposal, process, and next steps. More documents related to 2018-RUE-0001 are available on

our Planning Notices and Announcements page. If you would like to submit a public comment related to 2018-RUE-0001, please follow the instructions described in the attached notice. If you provide your comment via email, it would be helpful for me if you include "2018-RUE-0001 (Crane) Public Comment" in the subject line of the email. Your comment will become part of the public record and will be included in the exhibits submitted to the Hearing Examiner.

If you would like to discuss this application in more detail, please feel free to contact me directly or come in to the Permit Counter at City Hall from 9-12 or 1-3, Monday-Friday.

Best,

Lauren

Lauren Hoerr

Assistant Planner

Planning & Building Department

17425 Ballinger Way NE

City of Lake Forest Park, WA

206-957-2837

www.cityofflp.com



Disclaimer: This email is considered a public record and may be subject to public disclosure.

Lauren Hoerr

From: Lauren Hoerr
Sent: Thursday, August 02, 2018 11:29 AM
To: 'Jake Brooks'
Cc: Stephen Bennett
Subject: RE: Comment Letter on 2018-RUE-0001

Hi Jake,

Thank you for submitting your public comment on behalf of the Lake Forest Park Stewardship Foundation. I have included your email below and the attachment you submitted as a public comment and it is now part of the official record for 2018-RUE-0001. Your comment will be reviewed by the Planning Department and the Hearing Examiner. I will also add you to our list as parties of record for 2018-RUE-0001.

Please feel free to let me know if you have any questions.

Best,
Lauren

Lauren Hoerr
Assistant Planner
Planning & Building Department

17425 Ballinger Way NE
City of Lake Forest Park, WA
206-957-2837
www.cityoflfp.com



Disclaimer: This email is considered a public record and may be subject to public disclosure.

From: Jake Brooks <brooks@bnd-law.com>
Sent: Thursday, August 02, 2018 9:46 AM
To: Lauren Hoerr <lhoerr@ci.lake-forest-park.wa.us>
Subject: Comment Letter on 2018-RUE-0001

Please find attached written comments submitted on behalf of the Lake Forest Park Stewardship Foundation on the application for a reasonable use exception, file number 2018-RUE-0001. Please confirm receipt of this comment letter and let me know if you need any clarification.

Thank you.

Jake Brooks



BRICKLIN & NEWMAN LLP

Jake Brooks

Bricklin & Newman LLP
25 West Main Ave., Suite 234
Spokane, Washington 99201

Seattle office:
1424 Fourth Avenue, Suite 500
Seattle, Washington 98101

Phone: 206.264.8600
www.bricklinnewman.com

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BRICKLIN & NEWMAN LLP
lawyers working for the environment

Reply to: Seattle Office

August 2, 2018

VIA E-MAIL TO aplanner@cityofflp.com

City of Lake Forest Park
Lake Forest Park City Hall
17425 Bothell Way NE
Lake Forest Park, WA 98155

Re: File No. 2018-RUE-0001

I am submitting this comment on behalf of the Lake Forest Park Stewardship Foundation regarding the application for a reasonable use exception, file number 2018-RUE-0001. The applicant bears the burden of showing that adhering to the requirements of LFPMC Ch. 16.14 would deprive any reasonable economic use of the property and showing that the exception requested is made “only to the minimum necessary extent to allow for reasonable economic use of the applicant’s property.” LFPMC 16.14.100(F). The applicant has not met that burden here.

I. THE APPLICANT HAS NOT SHOWN THAT ANY REASONABLE ECONOMIC USE WILL BE DEPRIVED BY APPLYING THE TREE PRESERVATION REQUIREMENTS

Nothing within the application for a reasonable use exemption shows that the application of the tree canopy preservation and enhancement requirements will deprive the applicant of any reasonable economic use of the property. Namely, the applicant has not established that it cannot secure alternative sewage access to the site — obviating the need to disturb the Tree No. 6’s interior critical root zone — and the applicant certainly has not shown that it is necessary to remove the tree to maintain reasonable economic use of the property.

“The hearing examiner shall grant a reasonable use exception only if . . . Application of the requirements of this chapter will deny all reasonable economic use of the property; and . . . There is no other reasonable economic use with less impact . . .” LFPMC 16.14.100(C). The requirements for preservation of exceptional trees, such as Tree No. 6, are quite simple: “Tree removal permits shall not be granted for . . . Viable exceptional trees.” LFPMC 16.14.060(B).

First, the applicant argues that it is impossible to build a home on the property without digging a 6.5-foot deep hole approximately 9 feet away from the trunk of Tree No. 6 to locate and connect a sewer line. However, after detailing the three proposed options, the applicant concedes that “[t]he city was hoping for an Option 4, which entailed persuading my east neighbor to grant a joint

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use side sewer easement to his sewer stub, thus obviating the need to dig next to the tree for the sewer stub dedicated to my property. After several back and forth emails there was no affirmative agreement.” Yet the applicant does not provide any documentation of his efforts to obtain a side sewer easement and does not provide any further clarification on what it means that there was “no affirmative agreement.” It is unclear whether an agreement could be reached or not. A reasonable economic use exception to the requirements of the tree preservation code can only be granted if *any* reasonable economic use would be denied on the property. If the applicant could obtain a side sewer easement agreement with his neighbor by paying more money, agreeing to certain conditions, or other mechanisms, then the hearing examiner should require the applicant to exhaust those options before obtaining a reasonable use exception. Because the applicant bears the burden of showing that any reasonable economic use will be deprived on the property before a reasonable use exception can be granted, the applicant must make an affirmative showing that a side sewer easement cannot be obtained. A vague statement that there is “no affirmative agreement” does not meet this burden.

Second, the applicant has provided no justification for why the footprint of the house must be built within the critical root zone of Tree No. 6. Each of the three options proposed within the application show a 20-foot rear setback for the proposed residence. However, the application does not discuss the possibility of obtaining a variance under LFPMC 18.70.010 to reduce the rear setback and remove the footprint of the residence off the critical root zone. Elsewhere in the application, the applicant notes that the Lake Forest Park Building Department is willing to reduce setback requirements for a driveway. The applicant should also explore this option for the rear setback to avoid building in the critical root zone before arguing that any reasonable economic use is being deprived of the property.

II. THE APPLICANT HAS NOT SHOWN THAT THE REQUESTED EXCEPTIONS ARE THE MINIMUM NECESSARY TO ACHIEVE ECONOMIC USE

Not only must the applicant show that any reasonable economic use would be deprived on the property by the application of the tree preservation requirements, but the applicant must also show that the requested alteration in the code requirements are “the minimum necessary to allow for reasonable economic use of the property.” LFPMC 16.14.100(C)(4).

The third option proposed by the applicant involves completely removing Tree No. 6, while the other two options entail maintaining the tree on the property. At the outset, the hearing examiner should reject the option that would involve removing Tree No. 6. It is self-evident that removing the tree is not the “minimum necessary” alteration to provide reasonable economic use of the property — especially when the applicant acknowledges that leaving the tree in place is an option.

As noted above, the applicant has not met its burden in showing that digging a 6.5-foot deep hole approximately 9 feet away from the trunk of Tree No. 6 is the minimum necessary alteration to provide reasonable economic use. The applicant has not provided anything beyond vague statements to show that the Building Department’s preferred option — utilizing a sewer easement from neighboring property — is not viable.

Finally, the applicant has not shown why it is necessary to construct the proposed residence's footprint within the critical root zone and, more importantly, how this constitutes the minimum necessary alteration of code requirements to obtain reasonable economic use. The hearing examiner must reject the applicant's proposal if the applicant will not provide justification.

III. THE APPLICANT'S CLAIM THAT TREE NO. 6 WILL HAVE NO CHANCE OF SURVIVAL UNDER OPTION 1 IS NOT SUPPORTED

At the conclusion of the application, the applicant claims that "it seems senseless to make broad concessions for a tree that likely has no chance of survival . . ." However, the applicant has not provided any information that would indicate that Tree No. 6 has no chance of survival under the proposed Option 1.

It is unclear what the applicant is basing the conclusion that Tree No. 6 will not survive under Option 1. The applicant relies upon the Urban Forestry Services report (March 23, 2018), but the report explicitly warns that "[f]urther investigation is recommended for Tree No. 6 to evaluate the rooting habitat of this tree in this location and alter the plan for construction to adequately accommodate this large Douglas fir." Report at 4. The report does not opine that Tree No. 6 will not survive. The applicant also attached a report from Sound Arbor (April 29, 2018) to the application. This report concludes by stating "[i]f the decision is made to retain the tree and perform a crown reduction there is a fair to good chance that it will survive the construction impact." This is a far cry from the applicant's conclusion that the tree "likely has no chance of survival."

The Sound Arbor report also erroneously deems Tree No. 6 "hazardous." Though the report does not explicitly state it, this conclusion appears to be based upon the assumption that digging a sewer tie-in has occurred. What the report does not say is that Tree No. 6, as it exists currently, does not present a hazard. For instance, the Urban Forestry Services report listed the risk of Tree No. 6 as "medium." Report at 7. The Sound Arbor report misleadingly paints Tree No. 6 as an existing hazard, but that is simply not the case.

IV. CONCLUSION

While the applicant presents arguments why removing Tree No. 6 would be more convenient or make more money for him, those considerations are not relevant to the hearing examiner's decision. The only questions for the hearing examiner are whether the application of the requirement of preserving Tree No. 6 would deprive the applicant of any reasonable economic use of the property and whether the applicant is proposing the minimum necessary deviations from the code requirements. The burden is on the applicant to make these showings.

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EXHIBIT # 45.6

Here, the applicant has not met this burden. The hearing examiner should reject the application for a reasonable use exception and require the applicant to protect Tree No. 6.

Very truly yours,

BRICKLIN & NEWMAN, LLP

A handwritten signature in cursive script that reads "Jacob Brooks". The signature is written in black ink and is positioned below the typed name of the firm.

Jacob Brooks

JB:psc

Lauren Hoerr

From: Evans, Eric <eevans4@wm.com>
Sent: Thursday, September 27, 2018 10:01 AM
To: Stephen Bennett; Lauren Hoerr; Lauren Hoerr
Subject: 2018 -RUE-0001, Parcel#4019301515, Crane Hearing Request for extension
Attachments: DOC.PDF

Mr. Bennett,

Attached is a letter formally requesting a two week extension of the RUE hearing set for Oct 4th. It is coming upon the 10:00 AM time and there is still no release of cities findings. The five business days prior to the hearing is not a reasonable amount of time to review and professionally respond to this ever changing and important matter. Furthermore, the application is no longer clear or accurate with the revisions. Can the city of LFP please release a complete, accurate, and to scale notice of RUE application notice? The speculator merely added the second tree to the revision with no location, ICRZ, or impact as to where they are proposing to build and its impact to the tress in question.

Eric Evans,
Cell: 206 643 3129

Recycling is a good thing. Please recycle any printed emails.

September 27, 2018

Eric Evans
4625 NE 178th St
Lake Forest Park, WA 98155
EEeric00@gmail.com

Steven Bennet
Planning Director
City of Lake Forest Park
17425 Ballinger Way NE
Lake Forest Park, WA 98155
SBennett@ci.lake-forest-park.wa.us

Regarding: Parcel # 4019301515 / 2018-RUE-0001, Reasonable Use Exception Hearing Request for Date Extension

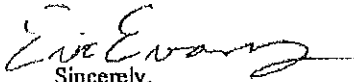
Dear Steve Bennet,

In response to the recent Reasonable Use Exception (RUE) revision to the Crane property, revised August 29th, 2018. The second tree being considered as an impact to the Reasonable Use Exception is not shown on the latest publication drawing nor the ICRZ area in conjunction to the proposed development as it was shown in the last proposed notice with 3 design options for the impact to the 52 inch diameter tree. There is no way to clearly see the trees in question and their impacts to the speculators proposed development of the property. Previously, Lake Forest Park (LFP) mailed out a notice listing 3 options the speculator was offering as his solutions. None of these drawings to my knowledge were verified to scale nor did they include both trees that are now included in the proponents RUE. In fact, a search of public records only confuses matters with so many different drawings and notices. I am respectfully requesting a RUE hearing date extension of two weeks from release of completed and accurate information. The 5 working days from the LFP release of findings to the formal hearing date is not enough time for a professional review and response. There is not sufficient clarity as to the exact trees in question and the proponent's intent of reasonable use.

Additionally, LFP has not made notice or clarity as to how the city will incorporate the removal of est. 5 trees in the right of way as part of this development and RUE application. This is a serious matter as the speculator proposed tree removal is directly tied into the same continuous tree canopy owned by the City of Lake Forest Park. The proponent has made claims of sanitary side sewer depths of 6 vertical feet to reach the sanitary stub on his property. This is a significant claim due to trenching and excavation methods to access this stub. I have not seen any evidence

from LFP or others besides the speculator that this depth or location is accurate. I have not seen any consideration of impact to the very large Elm tree located nearly on the rear of the proponent's property line. I have seen past documentation of a proposed underground stormwater collection system very near the base of the Elm tree location but no mention of the Elm tree ICRZ impacts or dimensions.

It is my opinion that this matter is not ready for a hearing. This matter has been changing and revising all along while the formal collection of documents and submissions is not all clear to base a professional argument for or against this issue. Please release an accurate, to scale, and verified description of the proponent's RUE application and set a new date for hearing so all parties can be fully informed of intent and impacts at the hearing.

 9/27/11 9:41 AM
Sincerely,
Eric Evans

Lauren Hoerr

From: Nick Holland
Sent: Thursday, September 27, 2018 10:22 AM
To: eevans4@wm.com
Cc: Stephen Bennett; Lauren Hoerr
Subject: Crane Project

Hi Eric,

I am Nick Holland, one of the LFP City staff working on the Crane RUE. Thank you for your request. The below excerpt is from the City's Hearing Examiner, Rules of Procedure, which indicates:

“Submittal of the “department report” by City staff shall occur not less than seven days prior to the scheduled hearing.”

Hopefully this helps to clarify the method and timeline regarding distribution of the City report materials. Please do not hesitate to contact us with any questions.

Nick Holland
Senior Planner
City of Lake Forest Park
Planning and Building Department
17425 Ballinger Way NE
Lake Forest Park, WA 98155
Direct: 206-957-2832



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Nick Holland

From: Julian Andersen <julian@andermac.org>
Sent: Thursday, September 27, 2018 2:56 PM
To: Lauren Hoerr; Nick Holland; Stephen Bennett
Cc: LFPSFdn Board; Eric Evans
Subject: 2018-RUE-0001 Crane RUE hearing - for the record

9/27/2018

For the RUE Hearing public record :

The Lake Forest Park Stewardship Foundation joins Eric Evans in his request for postponement of the Crane RUE hearing. The City staff report on this matter has yet to be released, although it is promised to be made public in a few hours. This delivery, while in conformity of LFP municipal code, is at the last possible moment.

The staff report will likely contain new information and opinion on this complex matter. Full understanding and analysis of the City staff report may require some time and may require considered opinions from an attorney, an arborist, or other professionals. More time is needed for such analysis.

A two week postponement, from October 5 to October 22, would provide sufficient time.

Sincerely,
— Julian Andersen

*Julian Andersen, President
Lake Forest Park Stewardship Foundation*