



CITY OF LAKE FOREST PARK PLANNING COMMISSION MEETING

Tuesday, September 08, 2026 at 7:00 PM

Meeting Location: In Person and Virtual / Zoom

17425 Ballinger Way NE Lake Forest Park, WA 98155

INSTRUCTIONS FOR ATTENDING THIS MEETING VIRTUALLY:

Join Zoom Webinar: <https://us06web.zoom.us/j/88590680456>

Call into Webinar: 253-215-8782 | **Webinar ID:** 885 9068 0456

The Planning Commission is providing opportunities for public comment by submitting a written comment or by attending the meeting in person to provide oral public comment.

HOW TO PARTICIPATE WITH ORAL COMMENTS:

If you are attending the meeting in person, there is a sign-in sheet located near the entrance to the room. Fill out the form and the presiding officer will call your name at the appropriate time. Oral comments are limited to 3:00 minutes per speaker. Oral comments are not being accepted via Zoom.

The meeting is being recorded.

HOW TO SUBMIT WRITTEN COMMENTS:

Written comments for public hearings will be submitted to Planning Commission if received by 5:00 p.m. on the date of the meeting; otherwise, they will be provided to the Planning Commission the next day. Because the City has implemented oral comments, written comments are no longer being read under Public Comments.

For up-to-date information on agendas, please visit the City's website at www.cityoflfp.gov.

AGENDA

1. CALL TO ORDER: 7:00 P.M. (confirm recording start)

2. 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.

3. APPROVAL OF AGENDA

4. APPROVAL OF MEETING MINUTES

A. Approval of Meeting Minutes of August 11, 2026, Regular Meetin

5. MEETING DATES

6. PUBLIC HEARINGS

7. PUBLIC COMMENTS

The Commission will not be accepting online public comments. Comments are limited to a three (3) minute time limit.

This is an opportunity for the public to address the Commission on agenda items.

- Oral public comments are only accepted in person to ensure the orderly conduct of the meeting.*
- Speakers are limited to three (3) minutes.*
- Commissioners may not respond during public comments, but may ask staff to follow up, if appropriate.*
- Public comments may not be used to promote or oppose candidates for public office or ballot measures.*
- The Chair or presiding officer may interrupt comments that violate these instructions, are unrelated to the agenda items, or otherwise hinder the orderly conduct of the meeting.*

8. REPORT FROM CITY COUNCIL LIAISON

A. Josh Rosenau, City Councilmember, Planning Commission Liaison

9. OLD BUSINESS

A. Critical Areas Ordinance Update- City Attorney background discussion on reasonable use exemptions (RUE) and continued Commission preparatory discussion on potential Critical Areas Ordinance amendments

B. Affordable Housing Next Steps and Direction Discussion- guest representatives for middle housing barrier perspectives

10. NEW BUSINESS

11. REPORTS AND ANNOUNCEMENTS

12. ADDITIONAL PUBLIC COMMENTS

13. AGENDA FOR NEXT MEETING

- A. Next regular meeting scheduled for Tuesday, October 13, 2026

14. ADJOURN

Any person requiring a disability accommodation should contact city hall at 206-368-5440 by 4:00 p.m. on the day of the meeting for more information.

City of Lake Forest Park – Planning Commission
Regular Meeting Minutes: August 11, 2026; 7:00-9:00pm
Hybrid Meeting Held in the Emergency Operations Center
at City Hall and Virtually via Zoom

Planning Commissioners present: Chair David Kleweno, Vice Chair Janne Kaje (via Zoom), Jean Reid, Hina Shahid (via Zoom), John Drew, Meredith LaBonte, Cherie Finazzo (via Zoom)

Planning Commissioners absent: Marty Ross

Staff and others present: Mark Hofman, Community Development Director; Josh Rosenau, City Council Liaison (via Zoom)

Members of the Public present: Jolene Jang, Stacey Auger, Brian Saunders, Jeff Jensen, Dana Campbell

Call to order: Chair Kleweno called the meeting to order at 7:00 PM

Land Acknowledgement: Cmr. Drew read the land acknowledgement.

Approval of Agenda: Chair Kleweno suggested switching the order of Old Business to discuss critical areas first. Cmr. Drew moved to approve the agenda as amended. Cmr. Finazzo seconded, and the motion to approve the agenda was carried unanimously.

Approval of Meeting Minutes:

Approval of Meeting Minutes of June 09, 2026, Regular Meeting

Vice Chair Kaje made a motion to approve the June 09, 2026, Meeting Minutes. Cmr. Drew seconded and the motion to approve the minutes was carried unanimously.

Public Hearing: No public hearing.

Next meeting: The next meeting occurs on Tuesday, September 08, 2026.

Public Comment:

Ms. Jang gave a comment on her experience of living next to a RUE site. Ms. Jang gave an overview of RUEs in the last nine years. Ms. Jang also spoke of the burden on neighboring property owners to defend the area and property damage due to excavations that occurred and sewer damage that affected multiple neighbors.

Ms. Auger also spoke on her experience of living next to the Garey RUE site and the financial impacts of the sewer damage that occurred.

Mr. Saunders gave an overview of the letter he wrote regarding the critical areas ordinance update. Mr. Saunders stated that a large part of the city of Lake Forest Park has critical areas. Mr. Saunders discussed his top three recommendations of his letter to strengthen the critical areas code including having a more science-based method of restoring habitat on streams similar to the city of Shoreline, putting the burden of proof about impacts on applicants similar to the city of Kenmore, and baring

development outright in state- or federally listed species habitat absent an agency-approved management plan.

Mr. Jensen stated that he is a fish biologist at UW Bothell and the importance of the habitat for species in the area and how important it is that the city focuses on protecting the environment in the city.

Ms. Campbell stated that she is a biologist and is worried about the effects of climate change. She also spoke about the importance of protecting environmental resources for resiliency.

City Council Liaison Report: Council member Rosenau gave a brief overview of the proposed levy lid lift and the work the city council has done in the last couple of months. Council member Rosenau also gave an update on the finishing of the WSDOT project and a possible planning contract on possible additional work. He also stated that the roundabout project was gearing up to start work on August 17, 2026.

Old Business:

Critical Areas Ordinance Update- continued discussion toward listing suggested, potential amendments to the City of Lake Forest Park LFPMC/Critical Areas Ordinance

The planning commissioners reviewed the comments they received from the public and agreed on the importance of understanding RUEs. Mr. Hofman gave an overview of the process of RUEs and the strength of the RUE code. The commissioners also spoke about having the city attorney, Kim Pratt, at the next planning commission meeting to go over the legal aspects of RUEs. Cmr. LaBonte also stated that she would look for a presentation from some years prior about RUEs.

Middle Housing Next Steps and Direction- continued discussion by Commissioners re: LFPMC Title 18, Planning and Land Use Regulation, and to consider potential roadblocks, need for clarity, or inconsistency in regulations for middle housing

Cmr. Shahid gave an overview of the Leland recommendations and of the work she's done researching the selling of ADUs in the city of Seattle and the real estate agents she has spoken with about the issues of ADUs and middle housing development.

Vice Chair Kaje stated that he has heard statements about hurdles that have been brought to planning commissioners about middle housing about permitting and code. Mr. Hofman stated that all applicants must still meet building, fire, drainage codes etc. Vice Chair Kaje stated that the planning commission should work on zeroing in on zoning issues that can be hurdles for applicants.

Cmr. Reid stated that she can reach out to a local builder, Brian Highberger, to discuss issues of building middle housing in the city. Cmr. Shahid volunteered to meet with architects in town center to discuss hurdles they may have in interpreting the code. Vice Chair Kaje stated that he is concerned that the commission is not getting enough support from the city to do its job.

New Business:

Reports and Announcements:

Planning Commission member appointments update and introductions

Mr. Hofman stated that Sam Castic has resigned from the commission as he has moved out of the country. Mr. Hofman also stated that the city council will appoint Ms. Reid on Thursday to fill that

vacancy.

Agenda for Next Meeting: Discussion on meeting with the city attorney to discuss RUEs, critical areas ordinance update, and questions for developers.

Adjournment: Vice Chair Kaje made a motion to adjourn the meeting, Cmr. Drew seconded, and the motion was carried unanimously. Chair Kleweno adjourned at 9:30 PM.

APPROVED:

David Kleweno, Planning Commission Chair

Brian Saunders
Lake Forest Park, WA 98155
August 11, 2026

Lake Forest Park Planning Commission
City of Lake Forest Park
17425 Ballinger Way NE
Lake Forest Park, WA 98155

Re: Recommendations for Strengthening Critical Areas Protections in the Lake Forest Park Municipal Code

Dear Members of the Planning Commission,

My name is Brian Saunders, and I have lived in Lake Forest Park my entire life. I grew up along the banks of McAleer Creek, and the countless hours I observed its flow through the seasons gave me a lasting attachment to the watersheds that define this city. That attachment eventually became a vocation: I hold a B.S. in Biology and an M.S. in Estuarine-Marine Science with a focus on ecology, and I have spent my career teaching sustainable principles at local colleges looking closely at how development and natural systems interact. I am writing to offer the Commission a set of suggestions, grounded in that scientific background, for updating the city's protections for critical and sensitive areas.

I understand that the Planning Commission's role is advisory, and that any changes to the Lake Forest Park Municipal Code (LFPMC) ultimately need to be recommended to, and adopted by, the Mayor and City Council. I offer the following, then, not as demands but as suggestions I hope the Commission will find useful as it formulates its own recommendations. I also recognize that many of my suggestions may already be on your radar and debated by this commission for which I would like to recognize the hard work and commitment you have demonstrated in past revisions.

To ground these suggestions, I compared our current critical area ordinance (CAO) code against the codes of five neighboring cities. Lake Forest Park already compares well: our wetland buffer widths are among the largest documented in the comparison, reaching up to 300 feet for high-functioning Category I/II wetlands; our code shares the same default-prohibition posture on critical area alteration that Shoreline uses; and our reasonable-use exception (RUE) already caps new home footprints at a relatively tight 750 square feet. It is not my intent to suggest the code needs a major revision, but more as refinements to a solid foundation rather than a

wholesale overhaul, and each is modeled on a provision already in active use by a neighboring jurisdiction, which I hope makes them easier to evaluate as workable rather than speculative.

Finally, these suggestions should underline the uniqueness of Lake Forest Park. A look at a Critical Areas map of our city reveals that these areas are not odd or rare places. Two major watersheds have carved out the landscape for hundreds of years through loosely packed glacial sill. The truth is that we have a lot more critical area to lose than most cities. And with increasing development pressures and impermeable surfaces, along with the adverse effects of climate change, efforts to preserve the natural habitats and the biodiversity they culture like our salmon species, become insurmountable without our critical area protected.

With that context, I would respectfully suggest the Commission consider recommending the following code changes:

1. **Adopt a science-based riparian buffer standard for streams, modeled on Shoreline's 200-foot Riparian Management Zone.** LFPMC does not currently appear to have a uniform, science-derived stream buffer comparable to Shoreline's. I would suggest replacing the fixed, ad hoc stream setbacks with a Riparian Management Zone standard based on WDFW's site-potential-tree-height methodology, as Shoreline adopted in 2025 and Kenmore adopted in 2024, paired with a capped reduction (for example, a maximum 25% reduction with an absolute floor no lower than 100 feet) rather than open-ended variance relief.
1. **Strengthen the "no net loss" language to require applicants to affirmatively prove impacts cannot be avoided before mitigation is considered.** Kenmore's code (§18.55.100) requires applicants to demonstrate an inability to avoid or reduce impacts before restoration or compensation is even allowed. I would suggest adding this affirmative-burden language explicitly, rather than listing mitigation sequencing only as a preference order, so the burden of proof sits with the applicant rather than the reviewing planner.
2. **Bar development outright in state- or federally listed species habitat absent an agency-approved management plan.** Shoreline's code (§20.80.330(E)) flatly prohibits development in habitat with a primary association to list endangered, threatened, or sensitive species unless a WDFW- or agency-approved management plan authorizes it. I would suggest Lake Forest Park adopt a similar categorical bar, rather than relying solely on general mitigation sequencing, which currently allows impacts if they are "compensated."
3. **Add economic-benefit-based civil penalties, like Bothell's approach.** Bothell calculates penalties based on the actual economic benefit a violator gained from the violation,

adds a separate penalty of up to \$25,000, and automatically refuses further permit applications from unresolved violators. I would suggest an economic-benefit penalty calculation, rather than only a flat per-day fine, so that it is never cheaper to violate the code and pay a fine than to comply with it.

4. **Extend the "default prohibition" framing explicitly to fish and wildlife habitat conservation areas, not just critical areas generally.** LFPMC §16.16.020 already prohibits alteration of critical areas generally unless expressly authorized, which is a strong starting point. I would suggest that fish and wildlife habitat conservation areas receive the same explicit, named prohibition-with-narrow-exceptions treatment that Shoreline uses in §20.80.330(A), rather than being folded into the general critical areas definition, so habitat protection cannot be read as secondary to wetlands and streams.
5. **Increase the maximum wetland buffer ceiling and confirm alignment with the most current Ecology wetland rating system.** Our own buffers already reach 300 feet for high-functioning Category I/II wetlands, among the strongest in the region. I would suggest the Commission ask staff to (a) confirm the code references the most current Washington State Department of Ecology wetland rating publication, and (b) establish a periodic review to reverify that our scoring thresholds match Ecology's latest guidance, since buffer credibility depends on the science behind it staying current.
6. **Tighten the reasonable-use exception's footprint cap into an enforceable ceiling rather than discretionary guidance.** LFPMC §16.16.250(B)(10)(a) already suggests a 750 square foot footprint and 1,500 square foot gross floor area guideline for hardship exceptions. I would suggest the Commission review whether this is phrased as a binding standard or merely discretionary guidance, and if the latter, recommend it be tightened into a hard ceiling, absent a documented, site-specific finding of infeasibility, so it cannot be negotiated away on a case-by-case basis.
7. **Require permanent conservation easements for any corridor used to justify a reduced buffer.** Both Lake Forest Park's and Bothell's wetland tables already reward developers with a smaller buffer if they preserve a 100-foot vegetated corridor to nearby habitat. I would suggest requiring that any corridor relied upon to justify a reduced buffer be permanently protected by a recorded conservation easement, rather than simply present at the time of permitting, so that future owners cannot later remove it.
8. **Formally track and publish a citywide "no net loss" accounting.** LFPMC's stated goal is "no net loss of wetland function, value, and acreage within each drainage basin" (§16.16.010(F)). I would suggest the city commit to a periodic public report, perhaps every three to five years, tallying cumulative wetland and critical area acreage and

function lost versus mitigated citywide, so that this goal is auditable rather than aspirational.

Each of these suggestions is modeled on a provision already operating successfully in a neighboring jurisdiction, so none would place Lake Forest Park outside the regional norm; if anything, they would help close the gap between the areas where our code is already strong and the areas where practice on the ground has, in my observation over the past several years of following local applications, sometimes fallen short of the code's stated intent.

I recognize that the Commission can only forward recommendations to the Mayor and City Council, and that many factors beyond the science will shape what ultimately moves forward. I would simply ask that the Commission consider these suggestions as it deliberates, and I would be glad to provide any additional technical detail, sources, or comparative code language that would be useful as that discussion proceeds.

Thank you for the time and care you devote to this work, and for the opportunity to contribute to it as a lifelong resident of this city and of the McAleer Creek watershed.

Sincerely,



Brian Saunders

bandesaunders@comcast.net

Note to Planning Commission
August 11, 2026 Meeting regarding Critical Areas Code

From: Stacey Auger & Jolene Jang
Subject: Revisions to LFPMC Chapters 16.16 & 16.26 — Re-Establishing Environmental Protections, Eliminating Taxpayer Subsidies, and Safeguarding Against Municipal Liability

Fundamental Call to Action: Shifting the Burden of Proof
With Reasonable Economic Use Exception (RUE) permit applications, the Planning Commission and the City must address a foundational question: **Who should bear the burden of proof that a property can be safely developed?** Should it be the neighboring residents who are threatened by the development plan, or the developer applicant and the City?

Currently, and historically in Lake Forest Park, that burden has rested almost entirely on neighboring homeowners and environmental advocates. Residents are forced to spend immense personal time and financial resources to prove the severe harm that will occur if an RUE is approved under proposed plans. Meanwhile, developer applicants are permitted to submit inaccurate answers, omit critical technical data, and gloss over known site hazards.

When the City approves these incomplete or flawed applications, the entire burden again falls on neighbors to prove that municipal codes and state laws have been violated.

CURRENT BURDEN OF PROOF

Developer Submits Inaccurate Checklist & Omits Hazards	City Approves Incomplete Application (Fearing Lawsuits)	Neighbors Bear Cost & Risk (2,000+ hours spent proving harm & code violations)
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Consider the human cost of this broken dynamic: one neighboring resident has spent over 2,000 hours researching local hydrology, fluvial morphology, and consulting with numerous geotechnical engineers, scientists, and state agencies—all simply to defend her home from the catastrophic threat of a landslide caused by an unsafe development proposal.

Should citizens be expected to dedicate 2,000 hours of their lives to defend their safety because a builder applicant submitted misinformation, and City authorities approved the application out of fear of being sued by the developer? This dynamic is not only unreasonable; it is profoundly unjust.

When will the laws be followed, and when will citizen safety be prioritized?
The legal and moral responsibility must lie squarely with the developer to provide 100% accurate, comprehensive, and verified site data, and with the City to rigorously review and enforce those

submittals. Our citizens should never have to carry this burden. While municipal codes contain existing penalties and consequences for non-compliance, they are currently left unenforced, leaving residents unprotected and exposing the City to massive legal liability.

Executive Summary: The Real Estate Gambling Loophole

A Reasonable Economic Use Exception (RUE) under LFPMC 16.16.250 was codified as a narrow legal safety valve to prevent unconstitutional takings of private land. However, **over the past nine years, Lake Forest Park has evaluated 8 RUE applications**—many of them triggering intense public concern and widespread neighborhood opposition. For the Mark Garey RUE alone, residents have submitted over **100 pages of detailed public comments**, and community members have produced a **dedicated podcast, website, and educational videos to inform the public and media** about the systemic risks of these proposals.

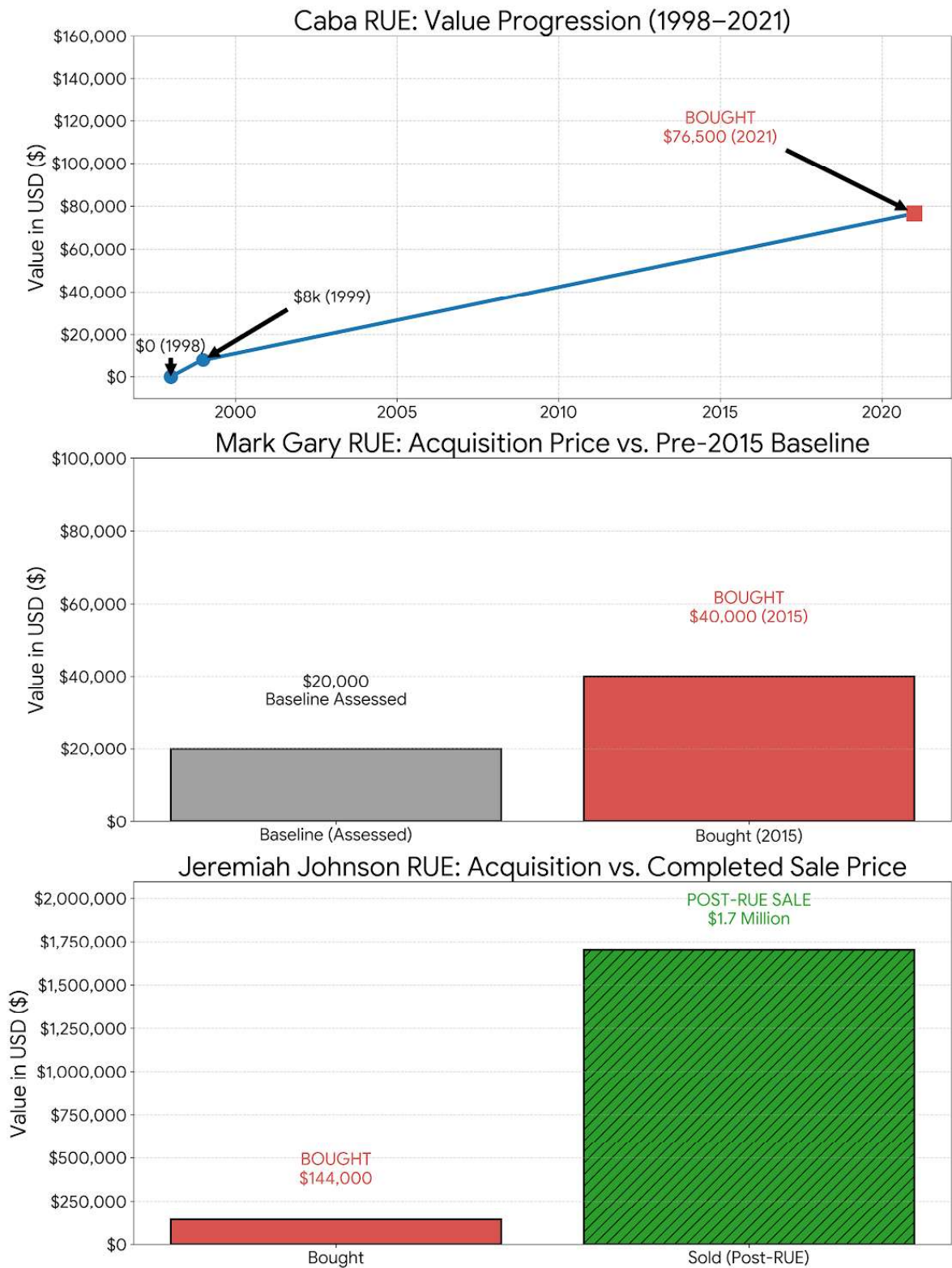
Both the Planning Commission and the City Council recognize that the current RUE process is deeply flawed. While previous efforts were made to update the text of the code, the underlying problem persists because active enforcement of the code is severely lacking. The fundamental goal of code modernization must be to place the legal and financial onus on the applicant, rather than piling administrative costs onto the City or forcing legal burdens onto neighboring residents.

Because the Planning Commission is actively updating Lake Forest Park's Critical Areas Code (LFPMC Chapter 16.16), the City must address how the current process functions in practice: as a **real estate gambling loophole**. Outside parties acquire unbuildable, highly constrained parcels in critical areas at steep discounts, betting that they can pressure the City into granting development exceptions.

When these high-risk developments proceed on fragile slopes and stream buffers, the developer reaps the profits while shifting physical damage onto neighboring properties, financial costs onto taxpayers, and legal liability onto the City.

Here are 3 RUEs bought deemed unbuildable from outside of Lake Forest Park.

Pattern of cheap buys and value jumps on constrained parcels



Under LFPMC 16.16.250, the Hearing Examiner may grant an exception only if the proposed development **does not pose an unreasonable threat** to public health, safety, or welfare, on or off the proposed site. Yet in active local cases, even before an RUE permit has been formally granted, applicant site activities have already **inflicted direct damage on public health, safety, welfare, neighboring residents, and local stream ecosystems.**

Operational Breakdown: Evidence & Case Studies

To demonstrate why immediate code amendments and strict administrative enforcement are required, the operational failures across Lake Forest Park must be examined in three distinct, sequential categories:

- 1. **Direct Property Damage**
- 2. **Systemic Financial Drain**
- 3. **Municipal Legal Liability**

Category 1: Direct Property Damage & Human Impact
DIRECT PROPERTY DAMAGE & HUMAN IMPACT

8 Feet of Active Sewer Main Severed & Covered	
Zero Enforcement Penalties or Identified Operator	
\$30,000 Repair Shifted onto Upstream Neighbors	
3 Households Displaced for Weeks	

A. The Unpermitted Excavator & Broken Sewer Line (Mark Garey RUE)

- **The Excavation Incident:** Unpermitted site activity on the Mark Garey parcel (#4022900497) brought an excavator onto constrained, environmentally sensitive ground. The heavy equipment struck, severed, and covered an 8-foot section of an active sewer main line, and the operator literally covered up the destroyed pipe (video and photographic evidence available).
- **Zero Denial & Zero Consequences:** There was zero denial that Garey's excavator destroyed the sewer main. Yet, no immediate code enforcement penalties, criminal citations, or stop-work fines were imposed on Garey for destroying active municipal utility infrastructure. Despite the work being unpermitted, the City has refused to identify the excavator operator, and public records requests regarding the incident turn up empty.
- **The \$30,000 Shift onto Innocent Neighbors:** The unpermitted excavation occurred in June, and residents began smelling raw sewage during the summer of 2025. However, the

upstream residents who rely on that sewer main were not formally notified by the City or the developer until January 2026—seven months later. Adding insult to injury, those innocent upstream homeowners were instructed that they had to **pay \$30,000** to repair the broken main line, despite having no involvement in operating the excavator that destroyed it.

- **Human Displacement:** The destruction and delayed response surrounding the sewer main forced 3 separate households to endure uncomfortable weeks of adjustment and displaced living, requiring families to seek outside accommodations for basic daily human needs, including showering, toileting, and temporary shelter.

B. Unmitigated Buffer Clear-Cutting & Off-Site Flooding (Johnson RUE)

- **Destruction of Natural Drainage:** Former Planning Commission Chair Maddy Larson documented how unmonitored and unpermitted clear-cutting destroys natural stormwater absorption and soil retention (e.g., the Jeremy Johnson RUE).
- **Downstream Neighborhood Inundation:** During heavy rain events, unmitigated surface runoff pours off disturbed hillside lots directly onto neighboring properties, washing sediment into yards, compromising structural foundations, and flooding downstream homes.

Moving from Physical Damage to Financial Impact

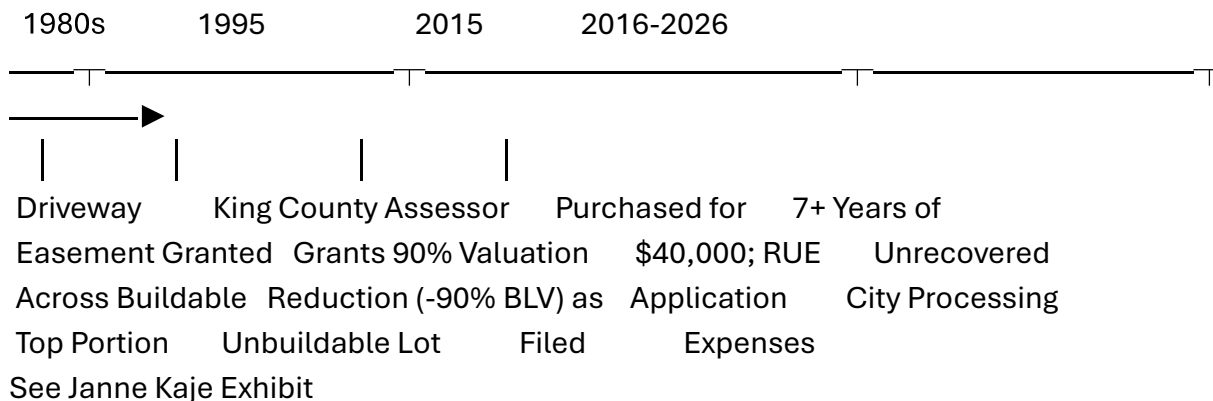
While unmitigated site activity inflicts direct physical damage on adjacent properties, the administrative side of the RUE process creates an equally severe, long-term financial drain on municipal resources and local taxpayers.

Category 2: Systemic Financial & Taxpayer Drain

A. The 30-Year Tax Subsidy & 7-Year Processing Drain (Mark Garey Parcel)

- **Self-Created Hardship & Tax Reduction:** In the 1980s, a previous owner of the Garey parcel granted a perpetual access easement across the flattest, most buildable portion of the lot to an adjacent neighbor. Having rendered the remainder of the lot virtually unbuildable, the owner appealed the property's tax assessment in 1995. The King County Assessor agreed, reducing the parcel's taxable value by 90% due to steep topography, stream constraints, and environmental setbacks.
- **The \$5.2 Million Tax Shift:** For nearly 30 years, this parcel was taxed as unbuildable open space, with assessed land values remaining under \$20,000. Based on tax analysis by Janne Kaje, Lake Forest Park taxpayers effectively subsidized over \$5,200,000 in avoided taxable property value for this single lot—amounting to over \$51,000 in avoided property taxes in 2023 dollars.
- **Unrecovered City Operating Costs:** In 2015, an outside purchaser bought the parcel for \$40,000 and applied for an RUE. The City has spent over seven years processing paperwork, legal inquiries, and SEPA challenges for this single parcel. Because the City does not require full cost recovery or track billable staff hours per file, municipal taxpayers are directly funding a multi-year development processing effort on land long recognized as unbuildable.

GAREY PARCEL HISTORIC TIMELINE



Category 3: Systemic Process Failures & Preliminary Screening Solutions

A. The Missing First Step: Proving Threshold RUE Applicability

- **The Fundamental Flaw in Current City Process:** Currently, the City accepts Reasonable Use Exception (RUE) applications and spends years processing, reviewing, and defending them without first establishing whether the property legally qualifies to receive an RUE in the first place.
- **The New Mandatory Checklist Requirement (Item #1):** Before an applicant can even submit an RUE application or trigger city staff review, the burden of proof must be on the applicant to submit a certified legal title, land-use chain, and historical boundary analysis proving that the parcel is legally eligible for an RUE.
- **The "Defective Property / Illegal Split" Standard (Janne Kaje Framework):**
 - As demonstrated in land-use doctrine and planning analysis by Janne Kaje and Peter Lance, an RUE is legally intended *only* for non-conforming, unbuildable lots that were created lawfully prior to critical area protections.
 - If a parcel was created through an improper, illegal, or defective lot split—or if a larger parcel was deliberately subdivided to create an unbuildable critical area remnant—the property is legally defective.
 - Under settled land-use doctrine, an RUE does not apply to a defective lot resulting from a prior split or self-created hardship. The owner holds no underlying legal right to a variance or RUE.

From: Peter Lance <peter.v.lance@gmail.com>
Sent: Tuesday, March 18, 2025 3:21 PM
To: David Greetham <dgreetham@cityoflfp.gov>
Subject: 2021-RUE-0001. Garey property - an owner created defective property

Dear Hearing Examiner,

This property is a defective property that is part of what was once a fully usable property that was not defective. It is a defective lot that was manufactured and fully understood to be defective when created by the owner during the short plat process.

The reasonable use of this lot was and is still present in the other lots that are part of the original short plat. The other lots have Reasonable Use and have homes upon them. There is no logical reason that the DELIBERATE creation of a faulty, defective lot by the owner or previous owner should create a Reasonable Use Exception. Just because a lot may have lot status does not confer that the lot is buildable or should be eligible for exception from critical areas ordinances.

The title report provided by the applicant is deficient. It does not include potentially key exhibits that are difficult to obtain from King County. The title report should show what the exhibits are for item C3, C4, and C7. These documents are related to steep slopes and the original short plat and amendments. This information should be readily available to all interested parties and easily accessible in the city records.

Thank you,

Peter Lance
206-948-8922
[6501 NE 151st St](#)
[Kenmore, WA 98028](#)

B. Mandatory Two-Step Protocol: Applicant Proof & City Verification

- **Step 1 (Applicant Duty):** The applicant must complete a standardized "RUE Eligibility Checklist" with supporting historical deeds, plat maps, and chain-of-title documentation proving the lot was not created via an improper split or self-created hardship.
 - **Step 2 (Mandatory City Verification):** The City Planning Department and City Attorney must formally audit and verify the applicant's submittal before accepting the application as complete, taking intake fees, or scheduling peer reviews.
 - **Systemic & Financial Impact:**
 - In the Mark Garey case (2021-RUE-0001), establishing this single threshold check at the beginning would have saved the **City seven years of administrative time, legal costs, staff hours, and taxpayer funds.**
 - It would have spared the surrounding neighbors years of emotional anguish, financial burden, and the nightmare situation of having to spend their own time, energy, and money defending their safety, homes, and hillside stability against an illegal build.
- RUE INTAKE & VERIFICATION WORKFLOW

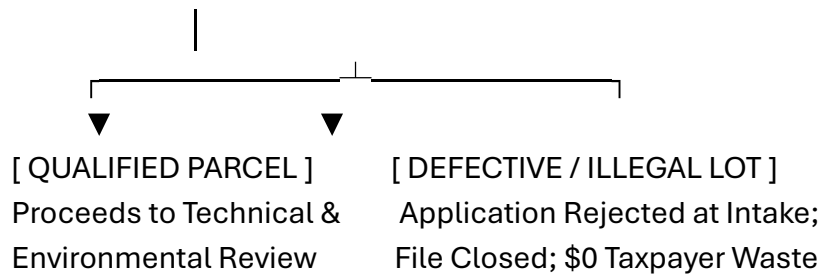
[STEP 1: APPLICANT SUBMITTAL]

Certified RUE Eligibility Checklist + Historical Plat Maps + Chain-of-Title



[STEP 2: MANDATORY CITY VERIFICATION]

Formal Audit by City Planning Department & City Attorney



C. Tripling City Professional Service Fees

- **Untracked Budget Growth:** Professional service fees within the Lake Forest Park city budget have tripled in recent years.
- **Lack of Cost Recovery:** The City currently lacks a transparent accounting system to track how many billable staff, legal, and consultant hours are consumed by individual RUE submittals, leaving taxpayers to absorb massive fee overruns for complex private proposals.

Connecting Financial Drain to Municipal Liability

When financial burdens are combined with weak administrative oversight, the result is a systemic failure of code enforcement that directly exposes the City of Lake Forest Park to catastrophic legal liability.

Category 4: Municipal Legal Liability & Enforcement Failures

A. Breakdown of Stop-Work Order Enforcement (Johnson RUE and other sight by Paula Goode's property)

- **Paper Warnings Without Deterrence:** City Councilmember Paula Goode have formally communicated to the Mayor and City Administration, regarding systemic enforcement failures surrounding Stop-Work Orders (SWOs). Repeated SWO violations occur without meaningful deterrence or consistent consequences, creating a public perception that SWOs are merely advisory rather than enforceable.
- **Uncompensated Staff Workload:** Tracking and responding to repeated SWO violations creates a substantial, uncompensated workload for City staff. Without mandatory daily monetary penalties or developer-funded cost recovery, builders treat administrative SWO notices as a minor cost of doing business while neighboring properties remain exposed to active risks. See Paula Goode Exhibit

Phil and Mayor,

I would like to raise a broader policy concern regarding enforcement of Stop Work Orders, particularly in connection with projects involving Reasonable Use Exceptions (RUEs), environmentally sensitive areas, grading activity, and discretionary development approvals. This has happened at the property next door of me, and also the issue has been raised by Jolene Jang and properties near her.

Over time, I have become increasingly concerned that repeated violations of Stop Work Orders may occur without meaningful deterrence or consistent consequences. When work continues after a Stop Work Order is issued and little visible enforcement follows, it can create the public perception that these orders are largely advisory rather than enforceable.

This is especially important for RUE-related projects, where applicants often receive extraordinary relief or exceptions due to the unique constraints of the property. In my opinion, extraordinary relief should also require extraordinary compliance with permit conditions, environmental protections, and enforcement directives.

I also believe it is important to recognize that repeated violations can create a substantial additional workload for City staff. Stop Work Order enforcement often requires repeated site visits, documentation, inspections, communications, legal coordination, complaint response, and administrative follow-up. Where violations continue after notice, those costs are effectively shifted onto the public and City resources. A structured penalty or cost-recovery framework could help both encourage compliance and partially offset the additional labor and administrative burden placed on staff and the City.

I believe this raises several important governance and policy questions for the City:

- Are the City's current enforcement tools sufficient to ensure compliance once a Stop Work Order is issued?
- Are monetary penalties or daily civil penalties currently available and consistently applied?
- Is there a clear escalation framework for repeated or knowing violations?
- Are enforcement actions tracked in a transparent and consistent manner? (i.e. How many Stop Work Orders were issued in the last 12 months?)
- Should there be enhanced enforcement standards for environmentally sensitive or discretionary projects?

My concern is not anti-development. Rather, it is about maintaining fairness, credibility, and public trust in the City's permitting and enforcement process. If some applicants comply immediately while others continue work without apparent consequence, it creates an uneven playing field and undermines confidence in the integrity of the process.

I would respectfully request support that staff evaluate:

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5. Whether Council should receive a policy discussion or briefing on the issue.

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- how many involved continued violations after issuance,
- whether penalties were assessed,
- and whether any repeat patterns exist.

I believe a clear and consistently enforced framework benefits everyone — residents, applicants, contractors, staff, and the City itself.

Thank you for considering this issue.

Paula Goode
Lake Forest Park City Council

- **Clear-Cutting Impact:** As documented in past cases such as the Jeremy Johnson RUE, projects issued a Stop-Work Order continued site work, causing downstream flooding to neighbors. City, state, and federal agencies possessed explicit authority to enforce fines and penalties, but failed to do so.

B. Obsolete Hazard Mapping & Unmapped Lyon Creek

- **Outdated Geohazard Data:** Lake Forest Park evaluates complex RUE applications using landslide, seismic, and steep-slope hazard maps that have not been updated since 2016.

- **The Missing Flood Baseline:** When inquiring about local flood risk layers, the **King County Flood Mapping Administrator confirmed that key reaches of Lyon Creek have never been mapped under the Flood Insurance Study.**
- **Ignored Mandate under LFPMC 16.16.210:** Approving development along an unmapped reach of Lyon Creek makes it impossible for the City to evaluate channel migration or seasonal flooding. Under LFPMC 16.16.210, the City has explicit authority to require current, site-specific technical studies whenever existing maps are incomplete. Approving development without fresh environmental data leaves the City legally vulnerable.

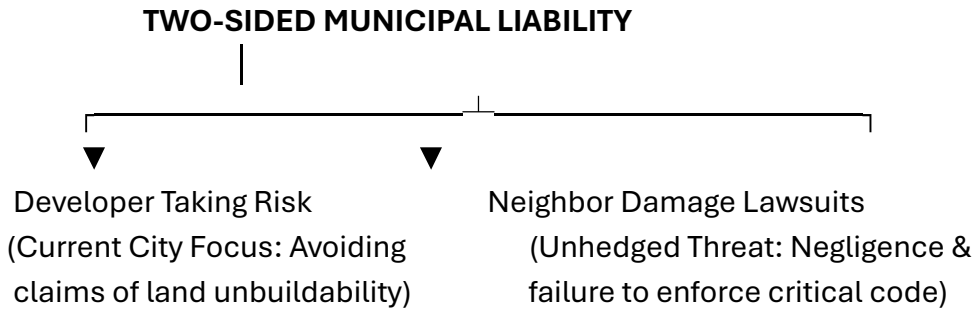
C. Code Integrity: Truthfulness & The "Two Strikes You're Out" Policy

To eliminate the incentive for applicants to submit inaccurate or incomplete environmental data, the municipal code must enforce strict submittal integrity under SEPA guidelines and RCW 9A.72.040 (False Swearing).

- **Mandatory Truthfulness Standard:** All RUE application submittals, geotechnical reports, and SEPA checklists must be submitted under sworn affidavit. **The Garey RUE SEPA checklist violates this code and has inconsistent answers across different documents. The Yamaguchi RUE also has inconsistent answers.**
- **Two Strikes You're Out Mandate:** If an applicant commits two material misrepresentations, omits known critical site hazards, or twice violates an issued Stop-Work Order, the application is automatically voided, all application fees are forfeited, and the applicant faces a mandatory 2-year prohibition on reapplication.

D. Two-Sided Legal Liability Exposure

While municipal risk management focuses on avoiding developer "taking" claims, the City ignores its primary financial exposure: unhedged, two-sided legal liability.



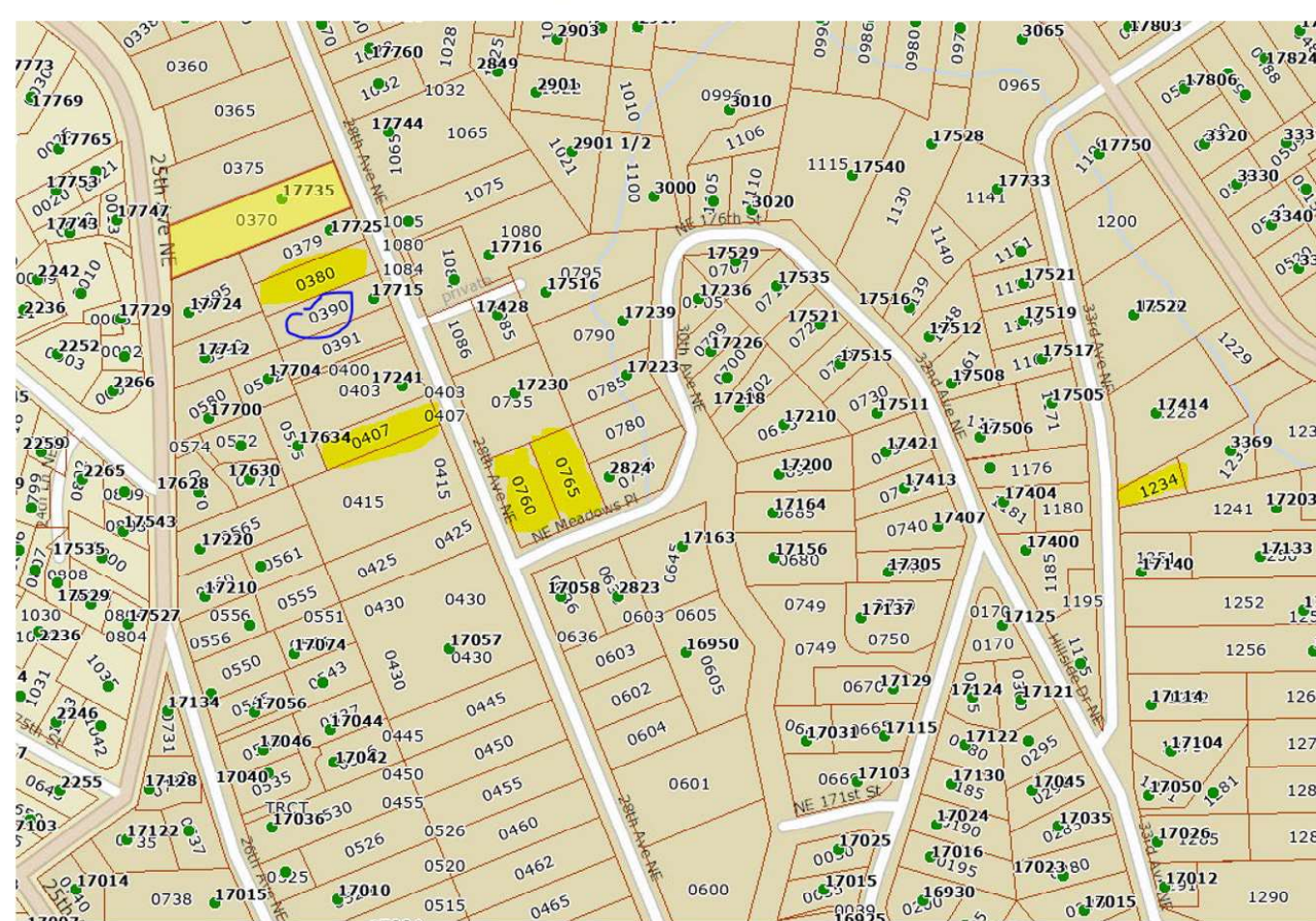
- **Dissolving Developer LLCs:** Real estate developments on constrained lots are often held under single-project LLCs that dissolve upon project completion, leaving neighbors without recourse against the builder.
- **Direct Negligence Lawsuits Against the City:** When the City approves permits on unverified data, ignores active SWO violations, or fails to enforce code after an unpermitted excavator destroys a sewer main, it creates a formal paper trail of known hazards. Affected homeowners will sue the City of Lake Forest Park for negligent permit administration and failure to enforce municipal code, exposing taxpayers to multi-million-dollar judgments.

Take a look at these RUES

Do you see any patterns?

RUE Applications (2020-July 2026)			Facet/DCG Wat Plog	Pace	Acre	Cobalt	Pacland	Approved
1	2018 Ganth (incomplete)							
2	2018 Crane							
3	2019-RUE-0001_2020-RUE-0001 (Matson)	17100/17110 28 th AVE NE	9/10/2019	x				
4	2020-CamJ-0005 Jeremiah Johnson							
5	2020-RUE-0002 (Khoa)			x	x		x	
6	2021-RUE-0001 (Garey)		x	x	x	x		7 years
7	2023-RUE-0001_20260056 (Caba)					x		3 years thus far
8	20250090 (Yamaguchi)		x	x				in process

6 out of the 9 RUES are in this neighborhood - Circled in blue is the environmental consultant



In the next letter, we will send more solutions and ways to revise the code to protect LFP.

See Janne Kaje comment

March 16, 2025

Re: Comments to Hearing examiner regarding Garey Reasonable Use Exception

File Number: 2021-RUE-0001

Proponent: Mark Garey

Permit Type: Reasonable Use Exception (Type I – Quasi-Judicial Decision of the Hearing Examiner, per LFPMC Section 16.26.030)

Location of proposal: Parcel # 4022900497

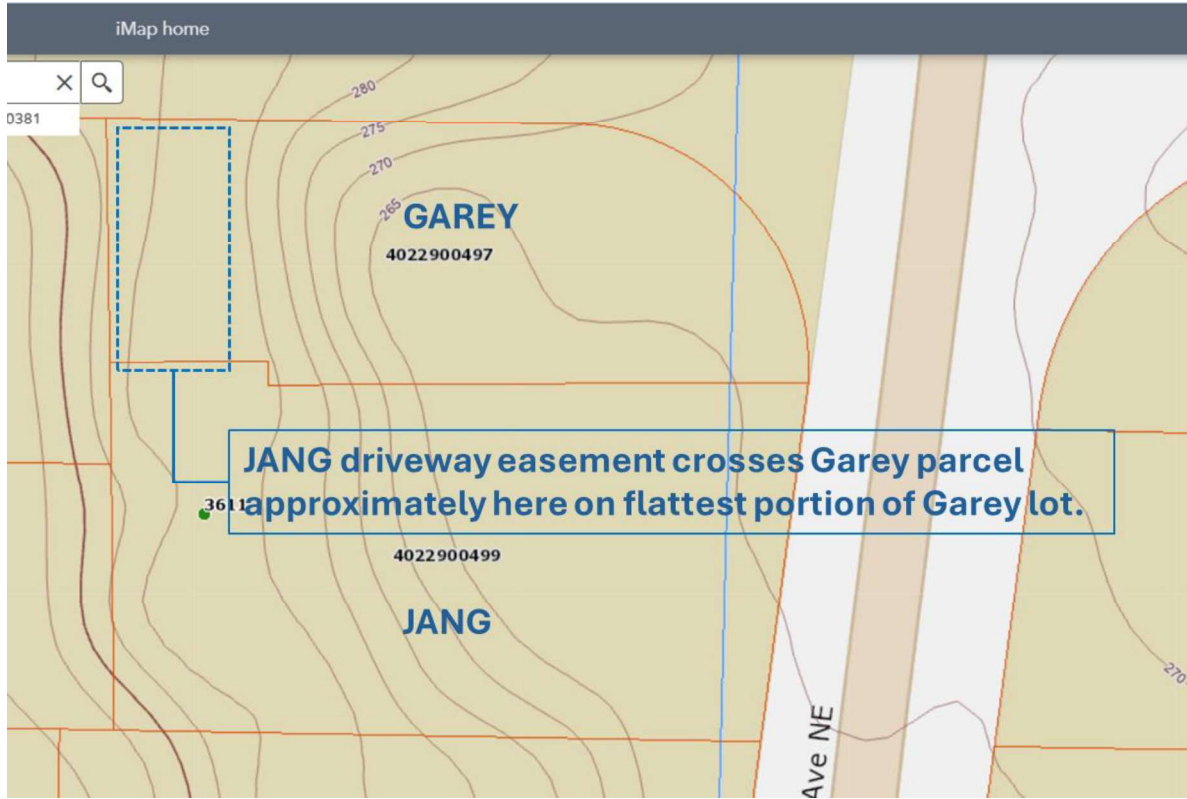
Summary: To grant a Reasonable Use Exception (RUE), the owner should have reasonably expected that development was possible when they purchased the property. The public record shows this is not the case. Based on the history of this property and affirmative actions taken by a previous owner, this property should not be eligible for a RUE. A prior owner of the property exercised their right to reasonable economic use by selling or granting an access easement to a neighboring parcel across the most buildable portion of the lot. That owner then successfully appealed the remaining property valuation and it has been taxed as unbuildable for nearly 30 years. If the property is deemed eligible for RUE, then the current owner should be liable, at minimum, for nearly thirty years of back taxes, totaling roughly \$50,000 in 2023 dollars, before penalties and interest.

Detailed comments: The Garey property has been officially deemed and taxed as unbuildable since at least 1995, and that information was publicly available to the current owner when they purchased the property in 2015. Based on the King County Assessor's tax records, a previous owner appealed the property value in 1995, almost certainly because the lot was deemed unbuildable even under then current environmental regulations and practical site constraints. The assessor agreed and reduced the taxable value from \$48,500 to \$20,000 and that value has hardly changed since then despite significant escalation in land and housing values. In fact, for the tax year 2025, the property is valued at just \$19,000. That is normal with the value of lots deemed unbuildable open space. If the Garey parcel had gone up in parallel with surrounding properties, the land value alone would be around \$300,000. Two adjacent lots of a similar size currently have assessed land values of more than \$330,000. Importantly, the appeal happened at the affirmative initiative of the property owner and that decision must stay with the property despite a change in ownership. The current owner purchased the property in 2015 for \$40,000, with a taxable value that year of \$24,000. In that same year, the land value of a neighboring parcel of similar size was valued at \$126,000. Due diligence by the buyer would have revealed the history of the assessed value and the reasons behind it.

While the specific motivations of a prior landowner are just speculation, the public record shows that a prior owner granted a perpetual easement to the neighboring parcel (current owner, Jang) in 1981. That easement likely took away the most buildable part of their own property.



The image below shows the topography of the parcel, with the driveway easement located on the flattest, most buildable portion of the parcel.



Approximate timeline:

- (1) Garey's predecessor sold a driveway easement to Jang parcel before 1989,
- (2) then successfully appealed the taxes on what was left in 1995, which was now unbuildable as a result of their own action as well as challenging topography,
- (3) sold the property to Garey at a fraction of the cost of comparable-but-buildable parcels, who now wants to build on the lower portion of the lot, next to the creek.

Tax implication: When property values are reduced through appeals or through enrollment in programs like the Public Benefit Rating System or Open Space Taxation, the tax obligation is borne by the remaining taxpayers in each taxing district (e.g., city, county, state, school district, etc.). Thus, if the city were to now reverse course and allow an RUE, the public would have been subsidizing the Garey parcel's tax obligations for nearly 30 years. For example, the Garey tax bill for 2025 is about \$193, while the tax bill for the land only on the neighboring parcel is more than \$3,700. It is fairly straightforward to estimate the tax benefit enjoyed by the property owner(s) since 1995 by comparing the assessed land value of similarly sized parcels. Before adjusting for inflation, I estimate that the owners have avoided tax payments on roughly \$3,700,000 in property value. When adjusted for inflation using the Consumer Price Index for the Seattle area, the avoided taxable value climbs to more than \$5,200,000 in 2023 dollars. At the 2024 property tax rate, that amounts to a bill of more than \$51,000 before interest and potential penalties.

The appeal decision was precipitated by the property owner 28 years ago – a reversal would not only be harmful to the environment, but also unjust to all residents who have carried the tax burden, and to the former owner who would not have received fair market value for the property when selling to Garey in 2015. This property is not the only vacant one in the city to have undergone a property value appeal for environmental and buildability reasons. Ruling here in favor of the landowner will open a giant can of worms.

Janne Kaje, resident, Lake Forest Park

From: Peter Lance <peter.v.lance@gmail.com>

Sent: Tuesday, March 18, 2025 3:21 PM

To: David Greetham <dgreetham@cityoflfp.gov>

Subject: 2021-RUE-0001. Garey property - an owner created defective property

Section 9, ItemA.

Dear Hearing Examiner,

This property is a defective property that is part of what was once a fully usable property that was not defective. It is a defective lot that was manufactured and fully understood to be defective when created by the owner during the short plat process.

The reasonable use of this lot was and is still present in the other lots that are part of the original short plat. The other lots have Reasonable Use and have homes upon them. There is no logical reason that the DELIBERATE creation of a faulty, defective lot by the owner or previous owner should create a Reasonable Use Exception. Just because a lot may have lot status does not confer that the lot is buildable or should be eligible for exception from critical areas ordinances.

The title report provided by the applicant is deficient. It does not include potentially key exhibits that are difficult to obtain from King County. The title report should show what the exhibits are for item C3, C4, and C7. These documents are related to steep slopes and the original short plat and amendments. This information should be readily available to all interested parties and easily accessible in the city records.

Thank you,

Peter Lance
206-948-8922
[6501 NE 151st St](#)
[Kenmore, WA 98028](#)

Phil and Mayor,

I would like to raise a broader policy concern regarding enforcement of Stop Work Orders, particularly in connection with projects involving Reasonable Use Exceptions (RUEs), environmentally sensitive areas, grading activity, and discretionary development approvals. This has happened at the property next door of me, and also the issue has been raised by Jolene Jang and properties near her.

Over time, I have become increasingly concerned that repeated violations of Stop Work Orders may occur without meaningful deterrence or consistent consequences. When work continues after a Stop Work Order is issued and little visible enforcement follows, it can create the public perception that these orders are largely advisory rather than enforceable.

This is especially important for RUE-related projects, where applicants often receive extraordinary relief or exceptions due to the unique constraints of the property. In my opinion, extraordinary relief should also require extraordinary compliance with permit conditions, environmental protections, and enforcement directives.

I also believe it is important to recognize that repeated violations can create a substantial additional workload for City staff. Stop Work Order enforcement often requires repeated site visits, documentation, inspections, communications, legal coordination, complaint response, and administrative follow-up. Where violations continue after notice, those costs are effectively shifted onto the public and City resources. A structured penalty or cost-recovery framework could help both encourage compliance and partially offset the additional labor and administrative burden placed on staff and the City.

I believe this raises several important governance and policy questions for the City:

- Are the City’s current enforcement tools sufficient to ensure compliance once a Stop Work Order is issued?
- Are monetary penalties or daily civil penalties currently available and consistently applied?
- Is there a clear escalation framework for repeated or knowing violations?
- Are enforcement actions tracked in a transparent and consistent manner? (i.e. How many Stop Work Orders were issued in the last 12 months?)
- Should there be enhanced enforcement standards for environmentally sensitive or discretionary projects?

My concern is not anti-development. Rather, it is about maintaining fairness, credibility, and public trust in the City’s permitting and enforcement process. If some applicants comply immediately while others continue work without apparent consequence, it creates an uneven playing field and undermines confidence in the integrity of the process.

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Lake Forest Park City Council

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