



CITY OF LAKE FOREST PARK CITY COUNCIL SPECIAL MEETING

Thursday, May 18, 2023 at 6:30 PM

Meeting Location: In Person and Virtual / Zoom
17425 Ballinger Way NE Lake Forest Park, WA 98155

INSTRUCTIONS FOR PARTICIPATING IN THIS MEETING VIRTUALLY:

Join Zoom Webinar: <https://us06web.zoom.us/j/84267704464>
Call into Webinar: 253-215-8782 | Webinar ID: 842 6770 4464

AGENDA

- 1. CALL TO ORDER - 6:30 p.m.**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ADOPTION OF AGENDA**
- 4. ITEMS FOR DISCUSSION, CONSIDERATION, AND/OR ACTION**
 - 1.** Continued discussion regarding Retaining Wall Guidelines
- 5. ADJOURN**

FUTURE SCHEDULE

--Monday, May 22, 2023 City Council Committee of the Whole Meeting 6 pm – *hybrid meeting (Zoom and City Hall)*
--Thursday, May 25, 2023 City Council Regular Meeting 7 pm – *hybrid meeting (Zoom and City Hall)*
--Monday, May 29, 2023 City Offices Closed in Observance of Memorial Day
--Thursday, June 8, 2023 City Council Work Session Meeting 6 pm – *hybrid meeting (Zoom and City Hall)*
--Thursday, June 8, 2023 City Council Regular Meeting 7 pm – *hybrid meeting (Zoom and City Hall)*
--Thursday, June 15, 2023 City Council Budget and Finance Committee Meeting 6 pm – *hybrid meeting (Zoom and City Hall)*
--Monday, June 19, 2023 City Offices Closed in Observance of Juneteenth
--Thursday, June 22, 2023 City Council Regular Meeting 7 pm – *hybrid meeting (Zoom and City Hall)*

This is a special meeting of the City Council. Action may only be taken on items listed on the agenda.

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

CITY COUNCIL

AGENDA COVER SHEET

Meeting Date	May 18, 2023
Originating Department	Planning
Contact Person	Steve Bennett, Planning Director and Kim Adams Pratt, City Attorney
Title	Continued discussion regarding Retaining Wall Guidelines

Legislative History

- First Presentation - January 26, 2023, regular City Council meeting
 - Second Presentation – February 6, 2023, City Council special Committee of the Whole meeting
 - Third Presentation – February 23, 2023, regular City Council meeting
 - Fourth Presentation – April 13, 2023, regular City Council meeting
 - Fifth Presentation – May 11, 2023, regular City Council meeting
 - Sixth Presentation – May 18, 2023, special City Council meeting
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Attachments:

1. Draft Ordinance 23-1263/Creating Chapter 12.50 of the Lake Forest Park Municipal Code, Retaining Walls
 2. Draft Retaining Wall Design Guidelines
 3. Chart of issues raised in public comment with revision options and/or other considerations
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Executive Summary

The City Council held a public hearing on May 11, 2023, regarding draft Ordinance 23-1263. Written comments were received prior to the public hearing and public comments were received during the hearing. The attached Chart is intended as a starting point for the City Council discussion regarding the next steps for draft Ordinance 23-1263. It lists general issues and prevalent concerns raised in public comments. It lists corresponding revisions that could be made to address issues and/or provides information for the City Council to consider.

Staff Recommendation

Consider the public comments received and additional information provided; give guidance to the administration regarding next steps for draft Ordinance 23-1263.

ORDINANCE NO. 23-1263**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, CREATING CHAPTER 12.50 OF THE LAKE FOREST PARK MUNICIPAL CODE, RETAINING WALLS; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, large scale retaining walls in or adjacent to publicly owned rights-of-way become de facto landmarks identifying the City of Lake Forest Park (the “City”); and

WHEREAS, it is imperative that such significant, recognizable features integrate with and support the community identity in the City; and

WHEREAS, chapter 12.50 of the Lake Forest Park Municipal Code (“LFPMC”) would establish regulations for retaining walls in or adjacent to publicly owned right-of-way;

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act, Chapter 43.21C RCW, pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance (“DNS”) was issued on April 12, 2023; and

WHEREAS, in accordance with the requirements set forth in RCW 36.70A.106, the City provided the Washington State Department of Commerce notice of the City’s intent to adopt the proposed amendments on April 6, 2023, and received notice that the Department had granted expedited review on April 20, 2023; and

WHEREAS, the City Council held public meetings to review the creation of Chapter 12.50 LFPMC during meetings on January 26, 2023; February 6, 2023, February 23, 2023, April 13, 2023, and May 11, 2023, and

WHEREAS, the City Council held a public hearing on May 11, 2023, regarding the proposed ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. ADOPTION. The City Council of the City of Lake Forest Park hereby creates chapter 12.50 LFPMC, Retaining Walls, as follows:

LFPMC 12.50.010 Retaining Walls

A. Retaining walls located within the right-of-way shall be installed to benefit the general public, by supporting or protecting public transportation infrastructure and shall not be for private development gain.

B. Walls located on private property or right-of-way that support or protect public transportation infrastructure shall meet the minimum requirements set forth in the latest edition of the Washington State Department of Transportation (WSDOT) Design Manual, Bridge Design Manual, and the International Building Code. The Public Works Director may require a third-party structural review prior to approval of the wall. Easements may be required for the maintenance, operation, and replacement of the wall.

C. The wall type shall be approved by the Public Works Director, who may take into account long term maintenance requirements, constructability, and recommendations from the applicants' or third-party engineers.

1. The wall construction type shall be the same from the highest to the lowest portion of each independent wall segment. Where walls are terraced or tiered, all tiers/terraces shall consist of the same wall construction type for the length of each independent segment.

2. Concrete walls that are prone to graffiti shall be coated with a moisture barrier and anti-graffiti paint.

3. An architectural finish or engineered block shall be used that integrates with and supports the community identity of the City showing a strong relationship to the surrounding natural environment including native trees, flora, and fauna of the region. The architectural finishes included in the Retaining Wall Design Guidelines dated May 11, 2023, are deemed to satisfy this requirement. The Public Works Director will review and approve the architectural finish and engineered block consistent with this section.

4. Landscaping treatments shall be used that reduce the harshness of these walls. The landscaping standards are provided in the Retaining Wall Design Guidelines dated May 11, 2023, and are deemed to satisfy this requirement. The Public Works Director will review and approve landscaping treatments consistent with this section.

5. If required by the impacts or circumstances related to a particular retaining wall, the Public Works Director may require conditions of approval that include but are not limited to the installation of a temporary irrigation systems and the funding or implementation of a 3-year plant monitoring and maintenance plan. A 3-year monitoring and maintenance plan shall be required for trees that are part of the landscaping plan.

D. Total structural isolation is required for public and private retaining walls adjacent to each other.

E. The applicant shall document that the retaining wall design satisfies WSDOT current criteria for noise attenuation as applicable.

Section 2. SEVERABILITY. Should any portion of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. CORRECTIONS. The City Clerk is authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. EFFECTIVE DATE. This ordinance shall take effect five (5) days after passage and publication.

APPROVED BY A MAJORITY the Lake Forest Park City Council this XXX day of XXX, 2023.

APPROVED:

Jeff Johnson
Mayor

ATTEST/AUTHENTICATED:

Matthew McLean
City Clerk

APPROVED AS TO FORM:

Kim Adams Pratt
City Attorney

Introduced:
Adopted:

Posted:
Published:
Effective:

DRAFT

Retaining Wall Design Guidelines - May 11, 2023

INTENT

These provisions are intended to mitigate the impact of large, monotonous retaining walls in the right-of-way by requiring architectural and landscaping treatments that reduce the harshness of such walls and reflect the community identity.

PROVISIONS

1. The architectural finish of retaining walls shall depict artistic images having a strong relationship to the Pacific Northwest and the surrounding natural environment including native trees, flora, and fauna of the region. (see examples in Figures A and B)

FIGURE A



FIGURE B



Commented [SB1]: Council may wish to consider adding the something similar to the language below to these guidelines to clarify the meaning of 'shall' and 'should'. This is taken from the Town Center Design Guidelines:

The terms used in the guidelines indicate whether provisions are required or whether they are discretionary, but highly recommended and desirable.

SHALL—The use of the term “shall” (or “shall not” in the negative) represents a requirement of the design to meet the intent of the guideline. This provision must be followed as part of planning, design, and implementation of the project.

SHOULD—The use of the term “should” (or “should not” in the negative) indicates a provision that is strongly encouraged, but that is not an absolute requirement. Compliance with this provision is voluntary, but highly desirable to the community.

2. In addition to the architectural finish requirements of Provision 1, landscaping and vegetation such as that found in Figures C and D below shall be installed. The plantings shall be native, drought tolerant species that do not require permanent irrigation and should reach coverage of 30% of the wall front surface within 36 months. If there is not a shoulder or sidewalk adjacent to the wall, landscaping that requires regular maintenance shall be minimized.

Commented [SB2]: Sound Transit has indicated that the only species of vines capable of climbing vertical surfaces without a trellis are not native. See comments in Attachment 3. Deleting 'native' is an action that could be taken to address this issue

Commented [SB3]: Sound Transit notes that maintenance will be required to achieve coverage. See comments in Attachment 3. Changing 'shall' to 'should' is an action that could be taken to address this issue.

FIGURE C



FIGURE D



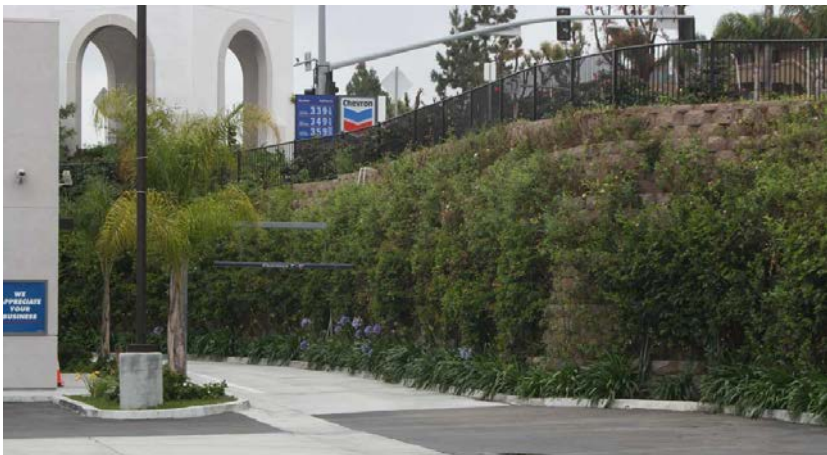
3. The wall construction type for an independent wall segment can deviate from the requirements of Provisions 1 and 2 if it can be demonstrated to the Public Works Director's satisfaction that

vegetation will grow directly from the wall face as shown in Figures E and F and will reach a coverage of 80% of the wall front surface within 36 months. The plantings shall be native, drought tolerant species that do not require permanent irrigation.

FIGURE E



FIGURE F



**CHART OF ISSUES/CONCERNS
REVISION OPTIONS/INFORMATION TO CONSIDER**

Retaining Wall Design Guidelines Issues raised in public comments	Retaining Wall Design Guidelines Revision options/information
The Guidelines are not clear that satisfying same is required to get a permit.	<p>Revise to change the name to Retaining Wall Design Standards.</p> <p>Add the following taken from the Town Center design guidelines:</p> <p>The terms used in the guidelines indicate whether provisions are required or whether they are discretionary, but highly recommended and desirable.</p> <p>SHALL—The use of the term “shall” (or “shall not” in the negative) represents a requirement of the design to meet the intent of the guideline. This provision must be followed as part of planning, design, and implementation of the project.</p> <p>SHOULD—The use of the term “should” (or “should not” in the negative) indicates a provision that is strongly encouraged, but that is not an absolute requirement. Compliance with this provision is voluntary, but highly desirable to the community.</p>
Landscaping and vegetation requirement of “native” is problematic in some instances.	Guidelines ¶ 2: PACE: Some native plant material may be applicable to Figure C (shrub and tree planting), not Figure D (climbing vines). Consider an edit to separate the landscape treatments. Native vegetation is still a good goal. Consider edit with “trees, shrubs and ground covers planted adjacent to a wall should incorporate plant species native to the pacific northwest where possible.”
Landscaping and vegetation coverage requirements may not be feasible depending on the height of the wall and may obscure the architectural finish.	<p>Guidelines ¶ 2: PACE: Generally, plants can be slow to get established, especially if not irrigated. They will be more vigorous after the 36 months, than before. Depending on the height of the wall, this coverage standard might not be feasible, even if planted from above and below. If the wall height permitted 30% coverage in 3 years, would you want 100% in 7-10 years obscuring the details of the architecturally finished wall in ¶ 1.</p> <p>PACE: Another thought, by using an aggressive coverage standard, you would be encouraging only the most hardy and fast growing vine, Boston Ivy (Figure D), used on almost every WSDOT retaining wall and sound wall. There are some good alternatives, evergreen flowering vines (clematis), Cascading ground covers</p>

	from the top of wall (rosemary or cotoneaster) All would be too slow to meet the standard.
Landscape and vegetation <u>maintenance</u> not clear if required or optional.	Revise “should” to “shall.”
Sound Transit: Landscape and vegetation criteria should be a goal not a requirement.	<p>Guidelines ¶ 2: PACE: Standard for planting strip width, topsoil depth for (1) planting shrubs and trees at base of wall (Figure C), (2) planting vines at base of wall or top of wall (Figure D)?</p> <p>PACE: Depending on the type of wall, there will be compacted base material or a concrete footing at the base of the wall. This will be a constraint to the soil volume available for installing and maintaining plant material. Consider requiring root barrier at back of walk if columnar / narrow trees are installed directly against the wall in this confined planting area.</p> <p>PACE: add standard for spacing between planting locations so that leafless vines aren't detracting from wall imagery</p> <p>RCW 36.70A.200(5) “No local comprehensive plan or development regulation may preclude the siting of essential public facilities.” Preclude has been defined by the courts as redarning impossible or impracticable and incapable of being performed or accomplished by means employed or at command.</p>
Use more natural images in the design guidelines. Include natural rock look.	
Draft Ordinance Issues raised in public comment	Draft Ordinance Revision options/information
<p>Address noise impacts in the ordinance.</p> <p>City should do its own noise analysis.</p>	<p>WSDOT has noise standards that the City needs to consider when addressing noise regulations.</p> <p>RCW 47.01.260(1) the department of transportation shall exercise all the powers and perform all the duties necessary, convenient, or incidental to the planning, locating, designing, constructing, improving, repairing, operating, and maintaining state highways, including bridges and other structures, culverts, and drainage facilities and channel changes necessary for the protection of state highways . . .</p>

There is no requirements for structural review in ordinance.	Section B. requires retaining walls to meet WSDOT and international building code. The section provides that the PW Director may require third party structural review. See RCW 47.01.260 for WSDOT authority over wall design when on a state highway.
Address graffiti in the ordinance.	Section C.2 “Concrete walls that are prone to graffiti shall be coated with moisture barrier and anti-graffiti paint.” Consider an edit making coating mandatory for all retaining walls.
The PW Director should not make the final decision on design.	Consider including requirement for peer review by qualified professional(s) on design issues in Section C. 3 and 4.
Define regular maintenance. Specify that failed plants shall be replaced. Require irrigation.	Section C.5. authorizes PW Director to impose conditions of approval including a maintenance plan. This allows PW Director to require a maintenance plan specific to the “particular retaining wall”. Consider an edit to specifically include in the draft that a maintenance and monitoring plan shall include replacement of failed plants.
Provide for LFP residents to have input on final permit decision. Provide an appeal process. Provide notice to citizens of the application and ability to comment on same.	Consider an edit that specifies a type of permit in Chapter 16.26 LFPMC. Two options below: Ministerial Administrative Decisions (1) - property posted, posting at City Hall. - No public hearing. - Appeal to Hearing Examiner. Type III Administrative Decision by director - Notice of Application mailed 300 feet, published, posted on site. - Comment period 14 days. - Director decision mailed to persons within 300 feet, posted - Appeal to Hearing Examiner
Use LFP residents/artists/professionals to approve final permit or provide input into design guidelines. Include a design review committee for final decision on design of retaining wall.	Currently in a Type IV Legislative process for non-project actions by City Council. Include such a group in this process. Regardless of decision maker, case law requires all design guidelines to contain workable standards and

	<p>ascertainable criteria that give meaningful guidance to applicants, design professionals, and city officials responsible for enforcement. Both applicant and the City's decision maker should be able to read the guidelines and understand what is required for the project. This ensures the City's decision is not arbitrary and capricious and prevents applicants from making an effort to comply with unarticulated criteria or to meet subjective feeling of individual decisions makers. <i>Anderson v. Issaquah</i>, 70 Wn. App 64, 76-77 (1993).</p> <p>2023 Legislation addressed design guidelines for housing and provides information as to how design guidelines and the process may be evaluated by the Growth Management Hearings Board.</p> <ul style="list-style-type: none"> - E2SHB 1110 (middle housing) requires administrative review by staff only, for housing design guideline compliance. Decision must be based "solely on objective design and development standards without a public pre-decision hearing. - ESHB 1293 "streamline development regulations". Applies broadly to exterior design of new development. Requires clear and objective development regulations, by which an applicant can determine whether a given design is permissible under the regulation. No design review process may contain more than one public <u>meeting</u> (this would include public hearings). <p>Chapter 2.41.010 Design Review Board.</p> <ul style="list-style-type: none"> - Currently provides recommendations to hearing examiner for Town Center design. Amendment would be needed to add retaining wall responsibilities. - 5 members to include experience in architecture, landscape architecture, environmental science, urban planning, urban design, or other relevant qualifications.
Include enforcement provisions.	In the draft ordinance the permit is not granted until the criteria are satisfied. The City's adopted building code includes provisions for suspension and revocation of permits.
Require bus jumps so that the retaining wall is not needed or is minimized. Ridership may be lesser now and the project may no longer be needed.	
Address crime impacts	