



Memorandum

To: City Council
From: Planning Commission
Date: September 13, 2022
Re: Recommended updates to the RUE Code (LFPMC 16.16.250)
Attachment: Draft Code Revisions for LFPMC 16.16.250 for Recommendation to City Council

On September 13, 2022, the Lake Forest Park Planning Commission approved the attached draft of recommended changes to the *City's Reasonable use exception to allow for reasonable economic use* code found in LFPMC 16.16.250. While we did not hold a public hearing on these recommendations, we received input from the community prior to the start of our work at our May 2022 meeting. Since then, we have had some public comment at our meetings through the summer. Further, based on input received from City Attorney Pratt, Director Bennett, and our own discussions it would appear there are few changes we can make to this section of our code that would serve to enhance its impact on our community.

There are, however, a few significant changes we can make that should ensure the adopted mitigation plans on these properties are realized.

1. Require a financial security guarantee for the required critical area mitigation performance and maintenance; LFPMC 16.16.250 Section 1.G of the recommendations.
2. Require the hearing examiner's decision granting an exception to be recorded against the real property with the King County Recorder's Office; LFPMC 16.16.250 Section 1.H of the recommendations.

In addition to the code amendments being recommended above, the Planning Commission also recommends that the Planning Department formalize the tracking of annual monitoring reports for all projects that are required to have a monitoring program. As a result of the Commission's review of existing RUE projects, it was determined that at least one project had failed to submit the required annual reports after the initial inspection and report was done in 2019. It wasn't until after the sale of the property and questions were raised that it was realized the reports for 2020 and 2021 had not been submitted. Once reminded of the requirement, the permittee did have a qualified professional prepare a 2022 report. Additionally, the Commission did not review RUE monitoring reports. The Planning Department is working with the new owner to ensure completion of the remaining three years of monitoring and is developing a system for proactively notifying permittees that annual reports are due for their projects.

Finally, the Planning Commission would like to recommend priority be given to hiring additional support for the Planning Department to oversee the various enforcement needs that exist in relationship to our Environmentally Critical Areas (Chapter 16.16) along with other key areas of our building code. Significant work has gone into developing the code that shapes our city and we need similar effort on enforcement of that code.

The Planning Commission would be happy to send a representative to assist staff and the City Attorney in providing additional background on these recommendations and to address any questions that Councilmembers have about them.

DRAFT AMENDMENTS
CHAPTER 16.16.250, REASONABLE USE EXCEPTION, LFPMC
(September 13, 2022 Planning Commission Meeting Recommended Amendments)

Section 1. AMEND. The City Council of the City of Lake Forest Park hereby amends section 16.16.250 LFPMC, Reasonable Use Exceptions, as follows:

A. If the application of this chapter will prevent any reasonable economic use of the owner's property, then the applicant may apply to the planning department for an exception from the requirements of this chapter and the application shall be processed pursuant to; ~~may be applied for in accordance with~~ the provisions of Chapter 16.26 LFPMC.

B. The planning director shall forward the application, along with the record submitted to the city and the director's recommendation, to the hearing examiner for decision.

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

1. Application of the requirements of this chapter will deny all reasonable economic use of the property; and

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

3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare, on or off the proposed site, and is consistent with the general purposes of this chapter and the comprehensive plan; and

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

5. The inability to derive reasonable use is not the result of an action or actions taken by the applicant or property owner.

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

E. The hearing examiner shall condition any exception from the requirements of this chapter upon conditions ~~recommended by the city and upon~~ compliance with any mitigation plan necessary to satisfy the criteria in this section. approved by the city.

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

G. All exceptions shall be conditioned on the property owner providing a financial security guarantee, in a form approved by the City, for the required critical area mitigation performance and maintenance. The amount of the financial guarantee shall be subject to approval of the City and based on a qualified professional's cost estimate of the current market value of labor and materials for the approved mitigation and monitoring plan as well as a thirty percent contingency.

H. The hearing examiner's decision granting an exception and all other mitigation documents shall be recorded against the real property in question with the King County Recorder's Office.