

City of Lake Forest Park - Planning Commission
Regular Meeting Minutes: May 10, 2022
Virtual/Zoom Meeting

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

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

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

Planning Commissioners absent: n/a

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

Land Acknowledgement:

Mr. Hicks read the land acknowledgement.

Approval of Agenda

Mr. Lee made a motion to approve the agenda, Mr. Fudge seconded, and the motion to approve the agenda passed unanimously.

Approval of Meeting Minutes

Mr. Gross made a motion to approve to approve the April 12, 2022, meeting minutes. Mr. Kleweno seconded.

Mr. Gross indicated that he didn't attend the meeting and requested that the correction will be made.

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

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

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

Meeting Dates:

Chair Larson noted that the next regular meeting is scheduled for June 14, 2022.

Citizen Comments:

Sally Yamasaki said she lives at 17868 40 AVE NE. She said that she appreciated the Commission's study of the RUE regulations. She said that climate change is affecting the environment, and that the regulations need to change to reflect that idea.

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

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

8
9 Dan Benson said he lives at 17868 40 AVE NE and that he is interested in the work the Commission is
10 doing. He talked about his understanding of the regulations and what types of properties are being
11 developed. He talked about how to mitigate impacts for the tree canopy protection and implications that
12 could occur without the correct enforcement. He said that he has commented on past projects.

13
14 Chair Larson summarized the focus of rest of meeting and described the agenda items.

15
16 **Old Business**

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

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

21
22 City Attorney Pratt said Council may not start from scratch, but that they will begin from ground zero and
23 build on what the Commission has recommended.

24
25 City Attorney Pratt said that a recent Supreme Court decision on confirmed that off premise signs can be
26 regulated. She then summarized the new amendments to Section 1 of the draft ordinance, Definitions, and
27 asked if there were any questions.

28
29 City Attorney Pratt summarized Section 2, which addresses prohibited signs, and Section 3, which regulates
30 signs that are exempt from permitting. She asked for questions. Chair Larson asked about the sign
31 dimensions and City Attorney Pratt responded and clarified.

32
33 City Attorney Pratt then summarized Section 4, addressing temporary sign regulations throughout the City.
34 She presented the new item (F) and described its content. She said that the court case helped guide the way
35 the language was drafted. Cmr. Cranmer asked why someone couldn't post a sign on their fence. City
36 Attorney Pratt responded and indicated that it was her understanding that that was the policy direction given
37 by the Commission. Cmr. Lee and Cmr. Hicks provided their perspectives on how temporary signs on fences
38 should be regulated. Discussion continued surrounding the location of temporary signs. Cmr. Cranmer said
39 that the regulations seem complicated and perhaps not easy to understand. Director Bennett suggested
40 seeing if there was consensus on deleting the "on fences" portion of the language. Other Commissioners said
41 they would like the language to remain. Chair Larson conducted a straw poll and most agreed to leave the
42 language on fencing as it was in the draft.

43
44 City Attorney Pratt summarized Section 5 which regulates the signs in residential multi-family zones. She
45 asked for questions and there were none.

46
47 City Attorney Pratt said Section 6 addresses signs in the BN and CC zones and as there were no questions,
48 she then moved on to Section 7 and described an addition for the TC zone that didn't get discussed at the last
49 meeting. Discussion of alternative language for Subsections 4 and 5 (18.52.070.H) were presented. Chair

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

4
5 City Attorney Pratt summarized Section 8 addressing signs in the Southern Gateway zones. She asked if
6 there were any questions and there were none.

7
8 City Attorney Pratt summarized Section 9 addressing signage in the right of way. She highlighted the location
9 and installation provisions. Chair Larson asked for clarification on Subsection 6 (18.52.080.A) and City
10 Attorney Pratt responded with detail and explanation.

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

14
15 Chair Larson said that the Commission is ready to conduct a public hearing on the new sign regulations. She
16 suggested having the hearing at the next meeting. Director Bennett said that he would prepare for the
17 hearing to occur at the next regular meeting. Chair Larson said that the Commission should be prepared to
18 have the public hearing at the next meeting and to formalize their recommendation to Council. Chair Larson
19 asked if background can be provided for the public hearing and Director Bennett responded that a
20 memorandum can be prepared in support of the hearing record.

21
22 **New Business:**

- 23
24
 - *Reasonable Use Exception – Presentation on legal parameters, review*

25 *process, and history of reasonable use exceptions in Lake Forest Park*

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

28
29 City Attorney Pratt provided background on why the city has Reasonable Use Exception (RUE) rules. She
30 said that the rule is used to prevent a taking under Washington State law. She explained the difference
31 between physical takings and regulatory takings. She explained how a regulatory taking is applied and
32 explained that if economic value is taken, the city can be liable. City Attorney Pratt said RUE rules are
33 adopted to prevent regulatory takings. She presented the two types of RUE processes the City has and
34 explained the difference between critical area RUE and exceptional tree RUE. She talked about what makes
35 up the pre-hearing record in an RUE public hearing which is what the Planning Director uses to recommend
36 an action to the Hearing Examiner. She explained the meaning of quasi-judicial and the application and
37 decision-making structure in the code. City Attorney Pratt said the applicant has the burden of proof to show
38 that their project complies with the criteria of approval for an RUE. She explained the criteria of approval for
39 critical area RUE and explained how they are applied.

40
41 Chair Larson asked how you determine how much mitigation is required. City Attorney Pratt responded and
42 indicated that it is based on expert testimony. Chair Larson asked whose experts are relied upon. Director
43 Bennett responded and said that both the applicant and the city can provide experts for testimony. Cmr.
44 Cranmer
45 asked what happens when the exception is granted. She asked if the Commission will be discussing the next
46 steps. Director Bennett responded and indicated that the staff's presentation should help answer that
47 question.
48

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

6
7 Chair Larson asked the Commissioners for any questions.

8
9 Cmr. Lee asked how to appeal a hearing examiner decision. Director Bennett responded and said that
10 County superior court handles appeal of hearing examiner decisions.

11
12 Cmr. Cranmer asked if there was a threshold for the mitigation. Director Bennett responded that the hearing
13 examiner relies on the expert testimony and then uses his judgement on what mitigation is appropriate.

14
15 Cmr. Kleweno asked what direction the Commission is headed. Chair Larson responded that, at this point,
16 the Commission is focused on the RUE process and all other issues will be discussed at future meetings.
17 Chair Larson said that staff presentations will be provided and that the Commission should think about
18 questions and potential changes to the process and RUE regulations.

19
20 **Reports and Announcements**

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22 None from staff.

23
24 **Additional Citizen Comments:**

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

32
33 **Agenda for Next Meeting:**

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

38
39 Dan Benson commented and said that Julian Anderson's comments triggered a thought about protecting a
40 grove of trees. He said that if the RUE process is applied just to single lots, it may not account for the
41 function of the critical area within the larger landscape.

42
43 Chair Larson invited all to write to the Commission on any topic discussed.

44
45 **Adjournment:**

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

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49 APPROVED:

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51 _____
52 Lois Lee, Vice Chair