

**BEFORE the HEARING EXAMINER for the
CITY of LYNNWOOD**

DECISION

FILE NUMBER: ¹ CAP-25-0006

APPLICANT: Rajesh Vasireddy

TYPE OF CASE: Reasonable Use Exception to reduce the width of a stream buffer from 100 feet to 50 feet

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: APPROVE subject to conditions

DATE OF DECISION: April 27, 2026

INTRODUCTION ²

Rajesh Vasireddy (“Vasireddy”) seeks a Reasonable Use Exception (“RUE”) from the provisions of Chapter 17.10 Lynnwood Municipal Code (“LMC”), Environmentally Sensitive Areas, to reduce a stream buffer width from 100 feet to 50 feet.

Vasireddy submitted a revised Critical Areas Report & Mitigation Plan with implied RUE application on February 23, 2026. ³ (Exhibit 1, PDF 2 ⁴) The Lynnwood Development and Business Services Department, Community Planning Division (“Planning”), deemed the application complete as of that date. (Exhibit 1, PDF 2)

The subject property is located at 16900 44th Avenue W. Its Assessor’s Parcel Number is 00372700900701 (“Parcel 007”). (Exhibit 2, PDF 7, §2.1 ⁵) Parcel 007 is owned by Garudachalam LLC. (Exhibit 1, PDF 1)

¹ File number confirmed at hearing. The file number on Exhibit 5 contains a scrivener’s error. (Testimony)

² Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

³ Vasireddy had submitted a Critical Areas Report on or about November 6, 2025. During its review of that report and its associated site development plan, Planning realized that Vasireddy’s proposal did not comply with all applicable critical areas regulations. On January 12, 2026, Planning advised Vasireddy that he would have to obtain an RUE if he wanted to develop the property as proposed. Planning treated the subsequently submitted revised Critical Areas Report as an RUE application. No formal RUE application was ever filed. (Exhibit 1, PDF 2; testimony)

⁴ Exhibit citations are provided for the reader’s benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. Citations to exhibits that are available electronically in PDF use PDF page numbers, not source document page numbers. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner’s Decision is based upon all documents in the record.

⁵ The parcel number on Exhibit 1 contains a scrivener’s error: It has an extra “7.”

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The Lynnwood Hearing Examiner (“Examiner”) viewed the subject property via Google Earth imagery: Overhead imagery collected July 6, 2024; Street View imagery collected in March 2025.

The Examiner held a hybrid open record hearing on April 22, 2026: In-person participation was available at the City Hall; remote participation was available through the “Zoom” platform. The City gave notice of the hearing as required by the LMC. (Exhibit 5)

The following exhibits were entered into the hearing record during the hearing:

- Exhibits 1 - 5: As enumerated in Exhibit 1, the Planning Staff Report
- Exhibit 6: Letter of support, Calvary Tabernacle UPC, from The Rev. Wade Plante, Pastor, received April 22, 2026 (undated)

Section 1.35.025 LMC requires that decisions on project permit applications which require a public hearing must be issued within 170 calendar days after the application is found to be complete, subject to certain exceptions and exemptions. [LMC 1.35.025(D) and (E)] The open record hearing was held on day 125. (Exhibit 1, PDF 2)

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner’s knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

FINDINGS OF FACT

1. Parcel 007 is a rectangle (whose dimensions are approximately 100’ north-south x 218’ east-west) containing approximately one-half acre which fronts on the west side of 44th Avenue W. Parcel 007 is zoned RM-45, a multiple-family residential zone in which single-family residences, duplexes, other types of multi-family residences, and day cares are permitted uses and primary and secondary schools are a conditional use. [LMC 8.35.0210, .0215, and .0220] The required building setbacks in the RM-45 zone are: Front = 5’; “Interior”⁶ = 20’; Alleys⁷ = 10’. [LMC 8.30.0330(B), Table 8.30.20, Rows E, F, & G]
2. Parcel 007 is bordered on the east by 44th Avenue W. Abutting on the north is a parcel containing a two-story, mixed-use building with a church (Calvary Tabernacle) on the upper floor and a beauty school and professional office on the first floor. A paved driveway and parking area surrounds that building. A commercial building with surrounding parking borders Parcel 007 to the west; that

⁶ Interior lot lines include side and some rear lot lines.

⁷ “*Alley*. A narrow public or private thoroughfare which provides only a secondary means of vehicular access to more than one adjoining property. Alleys are not designed for general traffic circulation and permit access from streets to the back side of buildings. Share [sic.] driveways are not included in this definition.” [LMC 8.99.0250(A), italic in original; underlining added]

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parcel accesses Highway 99 to the west. An undeveloped parcel through which the unnamed stream flows borders Parcel 007 to the south. (Exhibit 2, PDF 36; testimony)

3. Prior to the early 2000s Parcel 007 contained a single-family residence situated on the east end of the parcel near 44th Avenue W. The residence was destroyed by fire and subsequently demolished in the early 2000s. Its paved driveway remains at the southwest corner of Parcel 007. In or around 2019 - 2020 the site was substantially filled and covered with compacted gravel and pavement. The graveled/paved area is accessible from the parcel to the north near the northwest corner of Parcel 007. Vasireddy testified that he purchased Parcel 007 in 2022. ⁸ (Exhibit 2, PDF 38; testimony)
4. Vasireddy proposes to construct a Montessori School building (approx. 42' x 92') and a duplex residence (approx. 35' x 55') on the north half of Parcel 007 ("The School Project"). An unnamed tributary of Scriber Creek flows from east to west just south of the southern property line of Parcel 007. The reach of the unnamed tributary on the abutting property has been determined to meet state criteria for a fish bearing stream (a Type F stream). (Exhibits 2; 3; testimony) Lynnwood's Environmentally Critical Area regulations, Chapter 17.10 LMC, require a 100-foot-wide buffer from the ordinary high water mark ("OHWM") of Type F streams. [LMC 17.10.071(B)] A 15-foot wide building setback line ("BSBL") is also required from the outer edge of the buffer. [LMC 17.10.080] The regulatory buffer encumbers most of the western two-thirds of Parcel 007. The required BSBL is not called out on any of the plans in the record. When the 15-foot BSBL is added to the required 100-foot buffer, the only buildable area would be the eastern end of Parcel 007 where the buffer is truncated by the paved driveway. ⁹ Zoning setbacks would further reduce the buildable area. (Exhibit 2, PDF 38)
5. Snohomish County maps indicate that unnamed tributary flows arrive at the abutting property through a culvert beneath 44th Avenue W, cross that parcel as a daylighted stream, and then flow into culverts until exiting about 500 feet downstream into an apparent wetland on the west side of

⁸ The dates in this Finding of fact are those provided by Exhibit 1 (PDF 4) and sworn testimony during the hearing. On-line Snohomish County Assessor's records [Official notice, [https://www.snoco.org/proptax/\(S\(lwmpkysacbx25gzncymcdyu4\)\)/parcelinfo.aspx](https://www.snoco.org/proptax/(S(lwmpkysacbx25gzncymcdyu4))/parcelinfo.aspx), last visited April 24, 2026] indicate that Parcel 007's tax valuation was changed on March 11, 2005, due to building destruction, that Calvary Tabernacle purchased Parcel 007 on June 9, 2017, and that Garudachalam LLC purchased Parcel 007 from Calvary Tabernacle on October 7, 2024. Secretary of State records [Official notice, https://ccfs.sos.wa.gov/?_gl=1*1klcw35*_ga*MTU0MTg5NDc3My4xNzY4MjQzNTA2*_ga_7B08VE04WV*cze3NzcwNDg4ODUkbzmkZzEkdDE3NzcwNDkxMzkkajQyJGwwJGgw*_ga_X6SDF160YQ*cze3NzcwNDg4ODUkbzmkZzEkdDE3NzcwNDkxMzkkajQyJGwwJGgw#/BusinessSearch/BusinessInformation, last visited April 24, 2026] list Vasireddy as the Registered Agent and Governor of Garudachalam LLC. From the above, the Examiner concludes that Vasireddy testified from an imperfect memory of the events leading up to the purchase of Parcel 007. It also seems likely from the above information that the fill and pavement were placed during Calvary Tabernacle's ownership of Parcel 007.

⁹ A provision in the LMC's definition of "buffer" affects the width of the stream buffer on the eastern third of Parcel 007. A paved driveway and parking area enter the site near the south end of the eastern property line. The buffer definition states that "Buffers ... do not include areas that are separated and functionally isolated from a critical area by a legally established structure or use (for example, areas are separated by a road)." [LMC 17.10.030, Buffer] Planning interprets that provision to truncate the buffer at the southern edge of the paved driveway. (Testimony)

Highway 99.¹⁰ (Exhibit 2, PDF 36, 41) There is no wetland associated with the stream in the near vicinity of Parcel 007. (Exhibit 2, PDF 10)

6. The review criteria for RUE applications are set forth at LMC 17.10.046(B). Those criteria and the facts disclosed by the record pertaining to each are as follows:

“B. The hearing examiner must determine that:

“1. Application of this chapter would deny all reasonable use of the property;”

Facts: The combination of a 100-foot-wide buffer plus a 15-foot BSBL encumbers most of Parcel 007. The residual area does not leave a practical, buildable area. (Exhibit 2, PDF 38; see also Exhibit 1, PDF 3; 2, PDF 13 - 16)

“2. There is no reasonable use with less impact on the sensitive area;”

Facts: Any of the permitted or conditional uses allowed by the RM-45 zone would face the same problem of an impractically small area. The proposed uses (a private Montessori school and a small-footprint duplex) both have modest footprints. Arguably the most significant harm to the sensitive buffer area occurred prior to Vasireddy’s purchase of the property when a substantial portion of the buffer area on Parcel 007 was filled and covered with impermeable surfacing materials. With development of the residual portion of the buffer will come extensive restoration of the preserved buffer. That restoration will actually improve buffer functionality above what exists today. (Exhibit 2; see also Exhibit 1, PDF 3, 4; 2, PDF 13 – 16)

“3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare; and”

Facts: The proposed Montessori school and duplex residence, together with restoration of the remaining previously disturbed buffer area, will not create any threat to the public. Neither of the uses are harmful; the restored, remaining buffer will be an improvement. (Exhibit 1, PDF 4; 2, PDF 13 - 16)

“4. Any alteration to the sensitive area must be the minimum necessary to allow for the reasonable use of the property; and”

Facts: In most typical RUE cases, the physical size of the proposed building(s) is critical to determination of compliance with this criterion. In this case, however, it is not so much the

¹⁰ The stream is in culverts both to the east and west of the parcel abutting Parcel 007. Vasireddy’s critical areas consultant testified that the state classifies each segment of a stream essentially without regard to upstream or downstream segment conditions, essentially assuming that fish passage blockages (like culverts) do not exist. Thus, the short, open stream segment on the abutting property is Type F even though the immediately downstream segment flows through a culvert that is several hundred feet long and likely constitutes a fish passage blockage. (Testimony)

size of the proposed buildings as the configuration of the parcel and site access limitations which control. Calvary Tabernacle has reportedly granted Vasireddy an easement to use the southern driveway on its property for access. That easement allows Vasireddy's proposed use to use Calvary Tabernacle's southern driveway for access, thus eliminating an additional access onto 44th Avenue W and consequently eliminating additional circulation area on Parcel 007. Vasireddy has oriented the main building (the school) so its long axis parallels the stream, thus reducing the required buffer width reduction. The Examiner concludes that any further reduction of the buildable width of Parcel 007 would not allow for reasonable use of the parcel. (Exhibit 1, PDF 4, 5; 2, PDF 13 - 16)

“5. Impacts to critical areas and buffers are mitigated consistent with the purpose and standards of this chapter to the greatest extent feasible; and”

Facts: The proposed mitigation of the remaining disturbed portion of the stream buffer will improve the functions of that buffer area. (Exhibit 1, PDF 5) The mitigation plan currently lacks a detailed planting plan. (Exhibit 2, PDF 18 – 28) Planning orally recommended that a detailed planting plan be submitted before site work begins. (Testimony)

“6. The inability of the applicant to derive reasonable use of the property is not the result of actions of the property owner or some predecessor, which thereby created the condition after March 13, 2006.”

Facts: The filling and grading apparently occurred after March 13, 2006, but it was not that activity which created the condition requiring an RUE. The need for an RUE goes back to the relationship of the property boundary to the unnamed stream, an action which, in all probability, occurred long before the state's and City's current stream protection rules were enacted/adopted. (Exhibit 1, PDF 5)

7. Vasireddy's proposal is categorically exempt from the State Environmental Policy Act (“SEPA”) threshold determination process pursuant to WAC 197-11-800 and LMC 17.02.230(B)(3). (Exhibit 1, PDF 2)
8. Planning recommends approval of the requested RUE subject to five conditions. (Exhibit 1, PDF 6) Vasireddy has no objection to any of the recommended conditions. (Testimony)
9. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK ¹¹

The Examiner is legally required to decide this case within the framework created by the following principles:

¹¹ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

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Authority

An RUE is a Process I application which requires an open record hearing before the Examiner. [LMC 17.10.046(A)] The Examiner makes a final decision on the application which is subject to the right of reconsideration and appeal to Superior Court. [LMC 1.35.100, .168, and .175]

“If the hearing examiner grants a reasonable use exception, the examiner may impose conditions to ensure that the development is consistent with the intent of [Chapter 17.10 LMC].” [LMC 17.10.046(D)]

Review Criteria

The review criteria for RUE applications are set forth at LMC 17.10.046(B), quoted in Finding of Fact 6, above.

A “consistency determination” is also required for every project application. A consistency determination follows four steps set forth at LMC 1.35.070. Consistency criteria are:

1. Type of land use permitted at the site, including uses that may be allowed under certain circumstances if decision criteria are met;
2. Density of residential development (if applicable); and,
3. Availability and adequacy of public facilities (for those facilities identified in the Comprehensive Plan, if the Plan or the City’s development regulations provide for funding of these facilities).

[LMC 1.35.070(A)]

Vested Rights

“Vesting” serves to “fix” the regulations against which a development application is judged. [*Potala Village Kirkland, LLC v. City of Kirkland*, 183 Wn. App. 191 (2014), *review denied*, 182 Wn.2d 1004, 342 P.3d (2015)]

In 2014 the State Supreme Court flatly declared: “While it originated at common law, the vested rights doctrine is now statutory.” [*Town of Woodway v. Snohomish County*, 180 Wn.2d 165, 173, 322 P.3d 1219 (2014)] The *Potala* court rejected a contention that the filing of a complete shoreline substantial development permit application vested development rights because no statutory provision established vested rights for shoreline permits. [*Supra*, at 196-206]

Variances are not the subject of any state vesting statute. Historically, appellate courts have never applied the vested rights doctrine to applications for variances or exceptions from adopted standards. If Lynnwood had a local vesting ordinance applicable to land use applications, the Examiner would be obliged to follow it as enacted. [*Erickson & Associates v. McLerran*, 123 Wn.2d 864, 872 P.2d 1090 (1994); *Abbey Rd. Grp., LLC v. City of Bonney Lake*, 167 Wn.2d 242, 250, 218 P.3d 180 (2009)] But the City has no such local ordinance. Thus, the Examiner must follow the most current case law.

Under the most current case law, there is no vesting for Reasonable Use Exception applications because there is no statutory provision providing vesting for such applications.

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Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [LMC 1.35.155 and 17.10.046(C)]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. The facts in evidence, as summarized in the Findings of Fact, above, demonstrate without question that an RUE is appropriate for this site and that the current proposal meets all requirements for issuance of an RUE.
2. The School Project passes the “consistency” test: The proposed Montessori school and duplex are allowed uses in the RM-45 zone; there are no density limits in the RM-45 zone (density is indirectly regulated through dimensional standards); and all evidence indicates that adequate public utilities are available to serve the proposed use.
3. The recommended conditions of approval as set forth in Exhibit 1 are reasonable, supported by the evidence, and capable of accomplishment with the following changes:
 - A. When a permit involves a specific plan for development of a site, the Examiner typically believes it necessary to include a specific reference to the approved plan(s) in the conditions. This case is slightly different in that the Examiner is not sure that the setback from the north property line as depicted on Exhibit 3 complies with zoning code requirements. In this case, the better approach is to allow the Critical Areas Report (Exhibit 2) to delineate the usable area and the protected area (as it does by pink shading on PDF 38).
 - B. A few minor, non-substantive structure, grammar, and/or punctuation revisions to the Recommended Conditions will improve parallel construction, clarity, and flow within the conditions. In addition, the conditions will be numbered rather than lettered. Such changes will be made.
4. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, the testimony and evidence submitted at the open record hearing, and the Examiner’s site view, the Examiner **GRANTS** the requested Reasonable Use Exception **SUBJECT TO THE ATTACHED CONDITIONS**.

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\s\ John E. Galt

John E. Galt
Hearing Examiner

HEARING PARTICIPANTS ¹²

Rajesh Vasireddy
Karl Almgren

Rebecca Samy
Jennifer Marriott

NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file with the Lynnwood Development and Business Services Department a written request for reconsideration within seven calendar days following the issuance of this Decision in accordance with the procedures of LMC 1.35.168. Any request shall specify the error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the hearing conducted by the Examiner which forms the basis of the request. See LMC 1.35.168 for additional information and requirements regarding reconsideration.

NOTICE of RIGHT of APPEAL

This Decision is final subject to the right of a party of record (See LMC 1.35.148.) with standing, as provided in RCW 36.70C.060, to file a land use petition in Superior Court in accordance with the procedures of LMC 1.35.175 and the Land Use Petition Act [Chapter 36.70C RCW]. See LMC 1.35.175 for additional information and requirements regarding judicial appeals.

The following statement is provided pursuant to RCW 36.70B.130: “Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.”

¹² The official Parties of Record register is maintained by the City’s Hearing Clerk.

CONDITIONS OF APPROVAL
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THE SCHOOL PROJECT

This Reasonable Use Exception is subject to compliance with all applicable provisions, requirements, and standards of the Lynnwood Municipal Code, standards adopted pursuant thereto, and the following special conditions:

1. All development shall be subject to the Critical Areas Report & Mitigation Plan, The School Project, prepared by Wet.land, LLC, revised February 6, 2026, especially delineation of the buffer area to be protected, depicted in pink on Figure 5, PDF 38. (Exhibit 2) Prior to issuance of the development engineering permit or site development work, whichever comes first, a detailed mitigation planting plan, augmenting the mitigation plan in Exhibit 2, shall have been submitted to and approved by the Development and Business Services Department.
2. A copy of the access easement with the property to the north demonstrating the subject parcel's ability to use said easement for at least the life of the proposed buildings shall be submitted with the application for the development engineering or building permit, whichever is applied for first. If not recorded at the time of its submittal, it shall be recorded with the Snohomish County Auditor's office and proof of recording shall be provided to the Development and Business Services Department prior to approval of the permit with which it was submitted.
3. Prior to issuance of the development engineering permit or initiation of site development work, whichever comes first, a copy of the parking easement with the parcel to the north demonstrating the subject parcel's ability to use said easement for at least the life of the proposed buildings shall be provided to the Development and Business Services Department. If not recorded at the time of its submittal, it shall be recorded with the Snohomish County Auditor's office and proof of recording shall be provided to the Development and Business Services Department prior to approval of the development engineering permit. The development site plan shall show the location of all on and off-site parking.
4. Prior to issuance of the development engineering permit or site development work, whichever comes first, a performance, maintenance, and monitoring bond for a period of five years in accordance with LMC 17.10.140 shall be provided.