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BEFORE THE STATE OF WASHINGTON
GROWTH MANAGEMENT HEARINGS BOARD
FOR CENTRAL PUGET SOUND

CASCADE BICYCLE CLUB, a
Washington Corporation

Petitioner,

v.

CITY OF LAKE FOREST PARK, a
municipal corporation

Respondent.

NO.

PETITION FOR REVIEW

I. PETITIONER

Petitioner, Cascade Bicycle Club is a Washington Corporation. For purposes of this action all correspondence shall be served on the following representatives:

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1 David Hiller, Advocacy Director
2 Cascade Bicycle Club
3 P.O. Box 15165
4 Seattle, WA 98115
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david.hiller@cascadebicycleclub.org

5 II. ACTION FOR WHICH REVIEW IS SOUGHT

6 The Cascade Bicycle Club seeks review of Lake Forest Park Ordinance
7 951 which adopts new development regulations that render impracticable the
8 improvement and continued operation of the Burke-Gilman Trail, an essential
9 public facility that is owned and maintained by King County. The Lake Forest
10 Park City Council adopted Ordinance 951 on November 9, 2006. The ordinance
11 was published on November 24, 2006 in *The Herald*, a daily newspaper in
12 Everett, Washington. A copy of Ordinance 951 as adopted by The Lake Forest
13 Park City Council on November 9, 2006 is attached to this Petition for Review.

14 III. ISSUES PRESENTED FOR REVIEW

- 15 A. Does Ordinance 951 violate RCW 36.70A.020(3), .020(7), .029(9),
16 .020(12) and 36.70A.200(5) by allowing and requiring the
17 imposition of conditions that would render impracticable the
18 improvement of the Burke-Gilman Trail, an essential public facility,
19 and by subjecting any improvement of the trail to a conditional
20 permit process whose outcome is uncertain and unpredictable and
21 allows for permit denial?
- 22 B. Has Lake Forest Park violated the State Environmental Policy Act
23 (SEPA) by adopting Ordinance 951 without complying with the
24 procedural requirements of SEPA?
- 25 C. Has Lake Forest Park failed to comply with RCW 36.70A.200(1) by
26 failing to adopt a process for identifying and siting essential public
27

1 facilities, a process that was required to have been adopted by
2 September 1, 2002, or at the latest by the time of adoption of the
3 City's Comprehensive Plan?

4 D. Shall Ordinance 951 be invalidated where its continued
5 effectiveness would substantially interfere with the fulfillment of the
6 goals of the Growth Management Act, including, RCW
7 36.70A.020(3) (requiring the encouragement of efficient multimodal
8 transportation systems), .020(7) (requiring predictability in
9 permitting), .029(9) (requiring the development of parks and
10 recreation facilities) and .020(12) (requiring the maintenance of
11 service levels for public facilities)?

12 IV. STANDING

13 The Cascade Bicycle Club has standing to bring this petition for review
14 under RCW 36.70A.280(2)(b), (3) and (4). The Cascade Bicycle Club has
15 approximately 6700 active members, many of whom use the Burke-Gilman Trail
16 on a regular basis for commuting and for pleasure. The Cascade Bicycle Club
17 and many of its members have participated orally and in writing in the numerous
18 public hearings and other proceedings held on Ordinance 951.

19 The Cascade Bicycle Club and its members further have standing to
20 assert claims under SEPA because they are directly aggrieved and affected by
21 Ordinance 951 in that its passage renders impracticable the improvement of the
22 Lake Forest Park section of the Burke-Gilman Trail which is presently in poor
23 repair and poses direct hazards on a daily basis to travelers, including members
24 of the Cascade Bicycle Club. Lake Forest Park's continued frustration of
25 improvement to the Burke-Gilman Trail through the passage of Ordinance 951
26 conflicts with King County's Comprehensive Plan, allows for the continued

1 decline of the safety of the trail and constrains its use as a major, non-motorized
2 transportation corridor, which impacts fall within the zone of interests of SEPA.

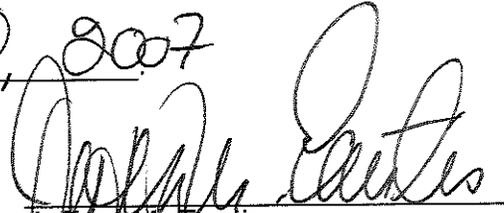
3 **V. ESTIMATED LENGTH OF HEARING**

4 Petitioner estimates that the Hearing on the Merits for this matter would
5 last approximately one half day.

6 **VI. RELIEF SOUGHT**

7 The Cascade Bicycle Club requests that the Board find Ordinance 951 out
8 of compliance with the GMA and SEPA and remand it back to Lake Forest Park
9 for action consistent with the Board's rulings. Petitioner further requests that the
10 Board find Lake Forest Park out of compliance with GMA for failure to adopt a
11 process for identifying and siting essential public facilities as required by RCW
12 36.70A.200(1). And finally, petitioner asks that the Board find and declare
13 Ordinance 951 to be invalid on grounds that it substantially interferes with the
14 fulfillment of the goals of GMA.

15 The petitioner has read this Petition for Review and believes its contents
16 to be true.

17
18 DATED: January 2, 2007
19
20 
21 Jeffrey M. Eustis
22 Attorney for Petitioner,
23 Cascade Bicycle Club
24 WSBA #9262

RECEIVED

DEC 26 2006

ORDINANCE NO. 951

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK; RELATING TO THE CITY'S CONDITIONAL USE ORDINANCE; AMENDING SECTION 18.54.047 OF THE LAKE FOREST PARK MUNICIPAL CODE PROVIDING SPECIFIC DEVELOPMENT CRITERIA UNDER WHICH A MULTI-USE OR MULTI-PURPOSE TRAIL MAY BE AUTHORIZED AS A CONDITIONAL USE

Whereas, congestion, conflicts and variety of users on multi-use and multi-purpose trails has increased to a level that requires special regulation and consideration; and

Whereas, the Lake Forest Park Municipal Code contains regulations governing multi-use and multi-purpose trail facilities under conditional uses in the City; and

Whereas, the City Council has determined that public health, safety and environmental issues raised by the public, including those raised in public hearings and meetings, will be protected and promoted by amendment of such regulations; and

Whereas, the City Council has determined that it is in the best interests of the City to amend the provisions in the Lake Forest Park Municipal Code governing multi-use and multi-purpose trail facilities as set forth in this Ordinance; now, therefore,

THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 18.54.047 of the Lake Forest Park Municipal Code is amended as follows:

18.54.47 Multi-use or Multi-purpose trails.

1. The City Council finds that the location of Multi-use or Multi-purpose trails in the City of Lake Forest Park provide the public with an important opportunity for recreation, outdoor activities and an alternative transportation mode in an urban environment.

2. The City Council finds that establishment, maintenance or improvement of Multi-use or Multi-purpose trails in an urban environment, while providing general benefits to the public, affects the quality of life and poses issues of safety for those living near a trail.

3. The City Council finds that the Multi-use or Multi-purpose nature of trails creates the potential for public safety issues arising from uses by different categories of users.

4. The City Council finds that the interests of the citizens of Lake Forest Park, trail users, and those living near trails are best served by regulating the development, improvement and operation of trails through a conditional use process designed to enhance the public's safety, to accommodate the interests of those living near trails, and to provide for the interests of all trail users; and, to that end, the City Council sets forth the following principles,

not as sources of additional authority for regulation, but as guidance for the City's Hearing Examiner, when that official considers applications under this section:

a. Avoid, whenever possible, altering traffic flows and patterns that are normal and customary to neighborhoods through which a trail passes or will pass, or impeding the safe and efficient ingress and egress to and from adjacent or near-by uses and areas, or degrading access for fire and emergency medical equipment and personnel.

b. Consider the neighborhood(s) through which a trail passes or will pass to maintain compatibility with such neighborhoods, and to the extent practicable maintain the privacy of adjacent residential uses or mitigate impacts upon residential uses through setbacks, screening/landscaping, fencing, and/or grade changes.

c. Provide a park-like environment where the trail passes through residential areas with adequate and properly directed lighting and appropriately placed information signs and kiosks.

d. Provide a safe environment for trail users and residents of areas adjacent to trails.

B. "Multi-use trail" and "multi-purpose trail" means a paved recreational path for non-motorized users that connects with or continues with such paths in other cities, including but not limited to paths designed for use by: bicyclists, in-line skaters, roller skaters, wheelchair users (both non-motorized and motorized) and pedestrians, including walkers, runners, people with baby strollers, and people walking dogs.

C. A multi-use or multi-purpose trail facility may be allowed, added to or altered as a conditional use in any land use zone of the City. In granting such conditional use, the hearing examiner is instructed to attach appropriate conditions such as, but not limited to, the following: limitation of size, location on property and screening and to only issue conditional use permits conditioned with any requirements provided under Chapter 18.54, unless otherwise provided herein.

D. Any conditional use for a multi-use trail or multi-purpose trail

1. Shall require for trail crossings with driveways and minor roadways:

a. providing access to less than 50 homes a yield sign for the trail users, maintaining right-of-way to motor vehicular traffic with advance warning signs on the trail and road (unless there are known conflicts that require a stop sign for the trail and/or additional traffic control measures); or

b. providing access to 50 or more homes a stop sign for the trail users, maintaining right-of-way to motor vehicular traffic with advance warning signs on the trail and road (unless there are known conflicts that require additional traffic control measures for the trail).

c. The number of homes provided access by a trail crossing shall be calculated by counting the number of housing units from the trail crossing to the point at which a housing unit is closer to an alternate trail crossing or other exit not requiring crossing the trail.

2. Shall, with respect to trail crossings at signalized or stop sign controlled intersections, align the trail to enter into the controlled intersection (e.g. via a marked cross walk) and abide by vehicular traffic control measures, unless the hearing examiner finds that such alignment is not practicable.

3. Shall specify maximum posted speeds not to exceed 15 MPH, provided that in order to promote safety and use of the trail by multiple users, a lower speed limit (e.g. 10 MPH) shall be posted in areas where there is user congestion, accident history, limited sightlines or other conditions that merit a lower speed limit. In the event that more than two (2) reported accidents, as recorded by the City's Chief of Police, involving more than one party occur within any 0.5 mile portion of any trail in a 12-month period, such portion of trail shall be deemed to be congested and/or to have other conditions meriting a lower speed limit and the posted speed limit in such areas shall, at the request of the City, be reduced (if previously higher) to not more than 10 MPH. If subsequent conditions change and a period of not less than 24 months passes without any reported accidents involving more than one party within the lower speed zone, the owner of the trail may request the City to increase the posted speed limit not to exceed 15 MPH (subject to reduction again as provided above).

4. Shall comply with all applicable requirements of this Chapter; provided that in addition to the site plan required by LFPMC 18.54.021, the applicant shall provide to the satisfaction of the hearing examiner:

a. A Traffic Control Plan that:

i. Includes a description of intersection control that addresses trail user safety and maintenance of reasonable convenience for traffic crossing the trail;

ii. Establishes specific type and location of traffic control and other signs and markings for trail users, such as stop signs, yield signs, speed limit signs, warning signs, crosswalks, and signs or markings that provide primary right-of-way for ingress and egress to uses along the trail;

iii. Establishes the location of radar activated speed indication devices as may be designated, provided and maintained by the City.

iv. Establishes a plan for law enforcement that identifies a scheduling mechanism for enforcement and the resources to be assigned to enforcement, provided that the plan may include a contract arrangement with the City for law enforcement.

b. A Trail Development Plan that:

i. Is compatible with the character and appearance of development in the vicinity and preserves the privacy of adjacent uses by the use of setbacks, screening, landscaping, fencing or grade changes to buffer adjacent properties;

ii. Specifies trail design speed(s), sight distances, trail surfaces, trail widths and speed control measures;

iii. Locates access limiting bollards, if any, and trail furniture, including but not limited to benches, tables, and kiosks;

iv. Provides a design of non-paved areas and shoulders including a screening plan that complies with the screening and landscaping requirements in Chapter 18.62; provided however, whenever a trail is adjacent to single family residential zones, screening/landscaping width shall be no less than 12 feet (provided that landscaping within sight triangles shall not interfere with the sight triangles), unless the hearing examiner determines that 12 feet of landscaping is not practicable;

v. Provides a design of adequate trail lighting for safety at drives and intersections while minimizing light shining into residences to the extent reasonably possible consistent with safety; and

vi. Provides for the following minimum setbacks from the property line of the trail right of way to the edge of the trail shoulder:

<u>Adjacent Property</u> <u>Zoning Designation</u>	<u>Minimum Required Setback</u>
<u>RS-RM</u>	<u>12-foot setback to shoulder of trail</u>
<u>BN, CC, TC</u>	<u>10 foot setback to shoulder of trail</u>

Provided however, whenever by reason of a pre-existing structure or topographical feature, width of available right of way or applicable environmental laws and regulations, the setback or landscaping requirements of this ordinance cannot be met by realignment of the proposed or expanded trail, the hearing examiner may condition a conditional use permit

1. by reducing the width of the proposed trail, but only to the extent consistent with trail user safety; or
2. by reducing the width of the required setback or landscaping by only that amount necessary to accommodate the proposed trail; or
3. by a combination of 1 and 2 above.

Whenever the hearing examiner conditions a conditional use permit by reducing the width of the required setback or landscaping, the hearing examiner shall include as a condition of the permit enhanced landscaping to provide screening that meets or exceeds screening provided by the combination of the required setback and landscaping; provided that, if the remaining setback or landscaping is inadequate in size to allow for enhanced landscaping, the hearing examiner may require installation of fencing that shall provide an effective visual barrier to the proposed trail.

c. A Trail Use Plan that:

i. Provides for the accommodation of different categories of trail users traveling at different speeds and with different space requirements and minimizes conflicts between them and that analyses how the following contribute to or promote such accommodation;

- A. posted speeds;
- B. design speed;
- C. trail surfaces, trail widths and speed control measures;

- D. use areas by different categories of users at peak times; and
- E. rules and regulations for trail users;

iii. Includes the location of signs providing notification of trail conditions and use regulations at entry points to the City and at other key points of the trail; and

d. A Trail Maintenance Plan establishing the party responsible for each trail facility feature requiring maintenance and establishing on-going maintenance standards to maintain the safety of users and appearance of the trail, including, but not limited to, the following:

i. Areas designated for maintained landscaping, e.g., site triangles and other areas that require regular maintenance indicating expected levels of maintenance, e.g. annual, monthly, more or less frequent during different seasons and procedures for periodic replacement of dead or dying plants;

ii. Areas proposed for minimal maintenance landscaping (e.g. control of noxious weeds or height of vegetation only);

iii. Areas proposed for no regular maintenance (e.g. natural areas that would have little or no maintenance other than that needed for health and safety or emergency reasons);

iv. Traffic control and information signing maintenance including:

A. Inspection schedule;

B. Replacement schedule; and

C. Enforcement actions for removal and defacement of signs;

v. Drainage facility maintenance;

vi. Lighting maintenance;

vii. Trail furniture maintenance;

viii. Maintenance of Trail Surface and Related Facilities, including but not limited to:

A. Inspection of pavement surface and tree roots;

B. Pavement surface repair to maintain smooth surface;

C. Sweeping and debris removal;

D. Patching of utility connections; and

E. Striped and painted areas.

ix. Response procedures for flood and landslide emergencies.

Section 2. If any section, subsection, sentence, clause, phrase or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this Ordinance.

Section 3. This ordinance shall take effect after publication and posting as provided by law.

PASSED BY A MAJORITY VOTE of the members of the City of Lake Forest Park City Council this 9th day of November 2006.

APPROVED:


Dwight A. Thompson, Mayor *pro tempore*

Attest:


Susan Stine, City Clerk