

**BEFORE THE HEARING EXAMINER for the
CITY of MERCER ISLAND**

ORDER DENYING RECONSIDERATION

FILE NUMBER: APL23-009

APPELLANTS: Dan Grove *et al.* ¹
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TYPE OF CASE: Appeal from approval of a Critical Area Review 2 (Ref. file no. CAO23-011)

¹ The other appellants, listed alphabetically, are Pam Faulkner, Jim Mattison, Susan Mattison, Lynn Michael, Martin Snoey, and Brigid Stackpool.

WHEREAS, on October 23, 2023, Dan Grove *et al.* (collectively “Grove”) filed an appeal from a Critical Area Review 2 decision issued by City of Mercer Island Community Planning & Development (“CP&D”) regarding an application filed by Dorothy Strand and Jeffrey Almeter (collectively “Strand”); and

WHEREAS, on November 1, 2023, after consultation with all principal parties, the City of Mercer Island Hearing Examiner (“Examiner”) selected December 7, 2023, at 10:00 a.m. as the date/time for the open record appeal hearing and communicated that action that same day to the principal parties by email; and

WHEREAS, on November 17, 2023, Respondent CP&D filed a Motion to Dismiss (“Dismissal Motion”) in the above entitled matter. Pursuant to Hearing Examiner Rule of Procedure (“RoP”) 204 the Examiner granted Appellants Grove and Applicants Strand 10 days in which to submit written responses to the Motion. On November 27, 2023, both filed timely responses; and

WHEREAS, on December 2, 2023, the Examiner emailed to the principal parties and to the City administrative staff who provide support to the Examiner an Order of Summary Dismissal (“Dismissal Order”) in the above-entitled matter dated Saturday, December 2, 2023. The Dismissal Order also canceled the December 7, 2023, hearing (which was moot upon dismissal of the appeal). The Examiner’s transmittal email advised the principal parties that the reconsideration period would commence on Monday, December 4, 2023 (the date that the Examiner expected the administrative staff would officially issue the Dismissal Order) and end on December 14, 2023. The Examiner distributed the Dismissal Order to the principal parties on Saturday the 2nd because he wanted them to have the maximum amount of notice possible to avoid unnecessary costs in hearing preparation; and

WHEREAS, as the result of an administrative glitch, the administrative staff did not officially issue the Dismissal Order until December 6, 2023. Upon being advised of that reality, the Examiner advised the principal parties by email that the reconsideration period would end on Monday, December 18, 2023. (The 10-day response period would have ended on Saturday, December 16, 2023, but since time periods cannot end on a non-business day, the period had to be extended to the following Monday.); and

WHEREAS, on December 18, 2023, Appellants Grove filed a timely Motion for Reconsideration (the “Reconsideration Motion”). The Mercer Island City Code does not provide for responses to motions for reconsideration. Thus, the Examiner could not request responses from the Respondent or Applicants; and

WHEREAS, of all the documents listed in the second recital of the Dismissal Order, three were the foundation of the Examiner’s action: Exhibit 9001.E: Administrative Interpretation 12-004, issued January 9, 2013; Exhibit 9001.F: Administrative Interpretation 04-04, issued August 9, 2004; and Exhibit 9005.D: Photograph, 6950 SE Maker Street, February 21, 1955; and

WHEREAS, after carefully considering the Reconsideration Motion and all of the information in the record, the Examiner is not convinced that the Dismissal Order as issued on December 2/6, 2023, should be changed in any regard.

NOW, THEREFORE, the Examiner **DENIES** the Motion for Reconsideration and reaffirms the Dismissal Order as issued on December 2/6, 2023.

ORDER issued December 29, 2023.

/s/ John E. Galt

John E. Galt
Hearing Examiner

NOTICE OF RIGHT OF APPEAL

The initial Dismissal Order, as affirmed by this Order Denying Reconsideration, is the final and conclusive action for the City. Any appeal must be filed within 21 days of the date of issuance of this Order. (See RCW 36.70C.020(2).)

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.”