



APPLICANT: Helene Bender

LOCATION: 2765 60th Avenue SE

ZONING: R-8.4

APPLICABLE SECTION OF ZONING CODE: 19.04.0501(E)

HEARING DATE: April 13, 1989

EXHIBITS: (1) Staff Report, (2) Vicinity Map, (3) Proposed Short Plat Map, (4) Application

PLANNING CONSULTANT: Shannon Hart

REQUEST: Variance of 1,200 square feet in order to subdivide a 15,600 square foot lot into two lots, one of which would be 7,200 square feet in area (1,200 square feet less than the minimum required lot area)

SUMMARY:

The planning consultant, having viewed the subject property and reviewed the evidence presented to date, recommends that the Hearing Examiner make the following Findings of Fact and Conclusions:

RECOMMENDED FINDINGS OF FACT:

1. It is proposed to short plat a 15,600 square foot lot into two lots of 8,400 and 7,200 square feet in area.
2. The subject property and surrounding properties occur in a R-8.4 zone. Section 19.04.0501(E) of the Mercer Island Zoning Code requires a minimum lot area of 8,400 square feet in a R-8.4 zone. The applicant has requested a variance of 1,200 square feet in order to create a lot of 7,200 square feet in area.
3. The subject property is a waterfront lot, located at 2765 60th Avenue SE. Existing improvements include a single family residence located on the upland, or easterly portion of the subject property, and a dock. Access to the residence is provided by a driveway from 60th Avenue S.E. The proposed short plat would create a 7,200 square foot lot for the existing residence, and a new 8,400 square foot lot on the rear, or westerly portion of the subject property. Access to the proposed 8,400 square foot lot would be provided by a driveway across an approximately 50

foot long portion of the currently unpaved S.E. 28th Street right-of-way.

4. The subject property slopes downhill toward the lake. The proposed upland lot would have a slope of approximately 7 percent. The proposed waterfront lot would have a slope of approximately 13 percent.

5. In the 1960's, the City staff approved a two lot short plat of the subject property. At the time the short plat was approved, the City Code allowed for the inclusion of shorelands in the calculation of lot area. The City Code has since been amended to exclude shorelands from lot area. The previously approved short plat was never recorded. In 1974, pursuant to State law which required the recording of short plats, the City Attorney determined that the non-conforming, unrecorded short plat of the subject property was void.

6. The subject property is bounded on the north by single family residences, on the south by Calkins Landing (a street-end, public park), on the west by Lake Washington, and on the east by 60th Avenue SE. Single family residences occur to the east of 60th Avenue SE.

7. Calkins Landing is a public, street-end, waterfront park located within the 75 feet wide right-of way of SE 28th Street. The park includes a beach for swimming and sun bathing, and benches near the lake. Approximately 100 feet of SE 28th Street, west of 60th Avenue SE, is paved, and provides access to one lot on the south side of SE 28th Street. The park begins at the terminus of the existing pavement. The park consists of an approximately 170 foot long grassy area with a trail leading to the waterfront.

8. Waterfront lots in the vicinity of the subject property are equal to or greater in area than the minimum requirements of the Mercer Island Zoning Code. Fourteen of the 19 residences (74%) located to the west of 60th Avenue SE between SE 27th Street and SE 30th Street occur on lots of approximately 15,000 square feet or greater.

9. Lot areas to the east of 60th Avenue SE are smaller than lot areas to the west of the street. To the east of 60th Avenue SE within 300 feet of the subject property, six

of the 13 lots have areas less than the minimum requirements of the Mercer Island Zoning Code. Three of the undersized lots are legally nonconforming, and three were granted variances from the requirements of the Mercer Island Zoning Code.

10. The three lots, for which lot area variances of approximately 10 percent were granted in 1976, are 7,500 square feet in area. The requested variance is for an approximately 14 percent reduction in lot area.

11. Approximately 300 feet to the east of the subject property there is an approximately 350' by 250' area of Multiple Family (R-2L) zoning. Said area includes several existing multiple family dwellings.

12. Each of the three properties, in the neighborhood to the east of the subject property, for which lot area variances were previously granted, is adjacent to the R-2L zone and multiple family dwellings.

13. The subject property is designated as single family residential, four or more dwelling units per acre, by the Mercer Island Comprehensive Plan. The R-8.4 zoning designation, which provides for the City's smallest single family residential lots, implements the Comprehensive Plan.

14. In November 1987, after re-examining the City's Comprehensive Plan for the area surrounding the I-90 corridor outside of the central business district, the City adopted Ordinance B-57. The ordinance down-zoned six areas, including the Multiple Family zoned area to the east of the subject property. Said area was rezoned from R-2 to the more restrictive R-2L zone. The City Council cited the desire to maintain the existing single family residential character of the area as justification for the down-zoning.

15. The subject property occurs within the Shoreline District subject to the jurisdiction of the Shoreline Management Act and the City's Shoreline Management Master Program (Section 19.04.130, Mercer Island Zoning Code). Development of the subject property must be consistent with the intent and purpose of the Shoreline Management Master Program and the Shoreline Management Act. The proposed variance is exempt from substantial development permit requirements.

16. The subject property is designated as an Urban Residential environment by the City's Shoreline Management Master Program. According to Section 19.04.130(I) of the Mercer Island Zoning Code, the purpose of the Urban Residential environment designation is to maintain the existing residential character of the designated area in terms of bulk, scale, and general types of activities and developments.

17. Section 19.04.1404(B) of the Mercer Island Zoning Code lists the following criteria for variance approval:

(a) That there are special circumstances applicable to the particular lot or tract, such as size, shape, topography, location, or surroundings, trees or ground cover, or other physical conditions, installation of a solar energy system, or the orientation of a building for the purpose of providing solar access;

(b) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;

(c) The granting of the variance will not alter the character of the neighborhood nor impair the appropriate use or development of adjacent property; and,

(d) The granting of the variance will not conflict with the general purposes and objectives of the Comprehensive Plan.

18. Section 19.04.1404 of the Mercer Island Zoning Code sets forth procedures for rendering decisions on requests for zoning variances. In accordance with the procedural requirements of Section .1404(A), a public hearing on the subject variance was scheduled within 35 days of the date the request was received by the Planning Department. Notice of the public hearing was published in the Mercer Island Reporter on March 29, 1989, and sent to surrounding residents within 300 feet of the subject property on March 21, 1989.

19. The subject variance is categorically exempt from the threshold determination requirements of the State Environmental Policy Act (RCW 43.21C).

RECOMMENDED CONCLUSIONS:

1. The subject variance is not consistent with all of the criteria for variance approval required in Section 19.04.1404(B), Mercer Island Zoning Code.

(a) There are no special circumstances applicable to the particular lot which preclude a reasonable use of the subject property. The existence of a non-conforming, unrecorded short plat, which was approved more than twenty years ago, is not a special circumstance which warrants a variance from code requirements which have been in effect for more than 15 years.

(b) The granting of the variance would be detrimental to the public welfare, and injurious to improvements in the vicinity and zone in which the property is located.

Calkins Landing is a passive recreational area, used by neighborhood residents for swimming, sunbathing, and enjoying the waterfront. The proposed driveway to the waterfront lot would significantly reduce the area of the park by traversing thirty percent of the currently landscaped street end.

Approval of the requested variance would allow the development of a new residence immediately adjacent to the most heavily utilized area of Calkins Landing. Such development would generate noise and visual impacts upon users of the park.

The sloping, waterfront area is a more sensitive environment than the level, upland area to the east of 60th Avenue SE. Adherence to minimum lot area requirements is necessary to preserve water quality and minimize disruption to the shoreline environment.

Approval of the requested variance would set an adverse precedent for the creation of other undersized lots along the waterfront to the west of 60th Avenue SE. The majority of waterfront lots in the vicinity are nearly twice the minimum required lot area. There are currently no undersized lots within this area. The environmental impacts associated with such an increase in density would be detrimental to the public welfare, and injurious to other residents of the area.

(c) The granting of the variance would alter the character of the neighborhood, and impair the appropriate use and development of Calkins Landing. (See Conclusion 1(b), above).

Approval of the requested variance would allow the creation of a lot significantly smaller than most of the lots to the west of 60th Avenue SE. There is a substantial difference between the character and density of the lake front neighborhood to the west of 60th Avenue SE versus the upland neighborhood between 60th Avenue SE and West Mercer Way. The majority of the undersized upland lots are legally non-conforming. Those undersized lots for which variances were approved are adjacent to multiple family residential buildings, and virtually surrounded by non-conforming undersized lots.

The magnitude of the requested variance is nearly 50% greater than that of the previously approved lot area variances in the upland neighborhood to the east. The proposed 7,200 square foot lot would be one of the smallest in the area.

Approval of the requested variance would set an adverse precedent for the creation of additional undersized lots, which would significantly alter the character of the waterfront neighborhood.

(d) The granting of the variance would conflict with the purposes and objectives of the City's Comprehensive Plan.

The policies of the Comprehensive Plan and Shoreline Management Master Program support maintenance of the existing single family residential character of the Island. The City's recent review of the Comprehensive Plan for the north end of the Island and down-zoning of six areas (including the Multiple Family area in the neighborhood of the subject property) are indicative of the City's sensitivity to the issue of increasing densities, and its intent to preserve the existing character of the Island. The creation of an undersized lot would contradict the City's recently adopted policies to encourage less intensive development in the vicinity of the subject property.

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RECOMMENDED DISPOSITION:

Based on the foregoing recommended findings of fact and conclusions, the planning consultant recommends that the requested variance be DENIED.