



## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF MERCER ISLAND

In the Matter of the Application of  
John Gregory/Dennis Alkire  
for lot area variances

Decision: The application is DENIED.

#### INTRODUCTION

The applicant, John Gregory/Dennis Alkire, filed an application for variances with regard to property located at 2704 and 2708 - 63rd Avenue S.E. The applicant proposes to divide a parcel into two lots without providing the minimum required lot area.

The Department of Community Development recommends that the application be denied.

This matter was heard before the Hearing Examiner on May 26, 1978.

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this application.

#### FINDINGS OF FACT

1. The applicant proposes to divide a parcel into two lots with resulting lot sizes of 5,544 square feet for the northerly lot and 6,000 square feet for the southerly lot. This proposal is in variance with Section 4.04, Mercer Island Zoning Code, in that a minimum area of 8,400 square feet is required for each lot due to the fact that the property is zoned R-8.4. Consequently, the applicant requests variance relief from the aforementioned provision and has the burden of establishing that the application satisfies the requirements of Section 18.02, Mercer Island Zoning Code.
2. The subject property contains an area of 11,544 square feet and has no topographical characteristics which are relevant to the proposed lot size variances. Each of the lots is developed with a single-family residence which has existed on the site since prior to 1960. The subject property is situated on the southeast corner of the intersection of 63rd Avenue S.E. and S.E. 27th Street.
3. Although the area surrounding the subject property is zoned R-8.4, the area is characterized by the existence of numerous substandard lots with regard to size. Several lots are actually smaller than the proposed northerly lot, but a vast majority exceed the size of either of the proposed lots. The average lot in the area is approximately 6,800 square feet so that both of the proposed lots would be out of character with the average lot for this area.

4. Similar variance requests in the area have been previously approved, but no variance has been granted which allowed a lot of less than 6,000 square feet. In the past 10 years all similar variance approvals in the vicinity have been for lots exceeding 7,500 square feet. The most recent request included a lot having less than 7,500 square feet in area and was consequently denied.
5. The applicant intends to remove the existing deteriorating residence on the northerly lot and replace it with a newly constructed residence that would be more in character with other residences in the vicinity. The proposal does not include any alteration of the existing structure on the southerly lot.
6. Denial of the requested variances would permit the continuation of the status quo in that the two residences would be permitted to continue in existence. However, the proposed removal of the northerly residence and construction of a new home would not be permitted since there would not be two legal lots to support the two residences.
7. The requested variances and proposed redevelopment of the northerly lot is inconsistent with the density limitations of the Mercer Island Comprehensive Plan. The Comprehensive Plan restricts density to two to four families per acre.

#### CONCLUSIONS

1. The applicant has not presented any evidence of special circumstances or conditions relating to the physical properties of the subject site. The fact that the entire parcel is somewhat larger than the 8,400 square foot minimum limitation of this zoning classification, or the fact that each of the proposed lots is unusually small in size, are not pertinent special circumstances. The total area of the parcel does not significantly exceed the minimum 8,400 square foot limitation and is not close to being of a sufficient area to be divided into two conforming lots.
2. The historical aspects of the development of this parcel and the fact that it was for a period under single ownership is a unique situation, but is not a special circumstance pertaining to the subject property as contemplated in the variance criteria of the Mercer Island Zoning Code. Consequently, while the situation is unusual the relevant characteristics of the site itself are not unusual and, therefore, the proposal does not merit approval.
3. The intended removal of the northerly residence and its replacement by a newly constructed residence would be an improvement that would be potentially beneficial to the surrounding area. However, such action would add vitality to the nonconforming situation and would cause a continuation of a density that is in nonconformance with current standards. Consequently, the approval of the requested variances would be detrimental to the public welfare and would adversely affect other property in the vicinity.
4. Approval of the requested variances would be out of character with the surrounding lot sizes and would be inconsistent with the density limitations of the Comprehensive Plan. Variance approval in this instance would further be inconsistent with established precedent in the immediate vicinity.
5. With regard to the State Environmental Policy Act of 1971 (SEPA), the action proposed in this application is categorically exempt pursuant to the provisions of WAC 197-10-170.

DECISION

The application is DENIED.

Entered this 13<sup>th</sup> day of June, 1978, pursuant to the authority granted under Resolution 742.

  
John L. Hendrickson  
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Pursuant to Section 6, Resolution 742, any person who is aggrieved by the decision of the Hearing Examiner may submit a written appeal to the City Council by filing the appeal with the City Clerk within ten (10) calendar days of the date of the Examiner's written decision. Appeals should be addressed to: City Clerk, 3505 - 88th Avenue S.E., Mercer Island, Washington 98040.

CITY OF MERCER ISLAND  
HEARING EXAMINER

May 26, 1978  
1:30 P.M.

Municipal Building  
Mercer Island, Washington

APPLICATION: Lot Size Variance  
John Gregory/Dennis Alkire

PRESIDING: John Hendrickson  
Hearing Examiner

STAFF: Jerry Bacon, Department of Community Development  
Inez Potwin, Department of Community Development

TAPE #1  
SIDE #1  
TAPE COUNT

00

1. CALL TO ORDER

The May 12, 1978, hearing was called to order by the Hearing Examiner, John Hendrickson, at 1:30 p.m.

2. INTRODUCTION BY HEARING EXAMINER

A description of the hearing sequence and the procedures to be followed were explained by the Examiner.

20

3. PUBLIC HEARING - This was the only item on the agenda and was called to order at 1:35 p.m.

A. LOT SIZE VARIANCE: John Gregory/Dennis Alkire, 2704 and 2708 - 63rd Avenue S.E., requests two variances of 2,400 square feet and 3,075 square feet, respectively, to create two lots in an R-8.4 zone.

22

All parties wishing to testify on this matter were affirmed by the Examiner.

23

Jerry Bacon, Department of Community Development, submitted the file which contains the application, staff report, a site plan, and correspondence from people concerned about the application. The file was entered as Exhibit No. 1.

26

Mr. Bacon summarized the staff report. The staff recommends denial of this variance request on the basis that it would conflict with the Mercer Island Comprehensive Plan. He stated that no lot smaller in size than 6,000 square feet has

been approved by the variance procedure.

- 75 Dennis Alkire, 926 - 12th Avenue East, Seattle 98102, stated that he is one of the applicants. Mr. Alkire stated that he believes that there are special circumstances concerning the physical conditions of the property because there are two pre-existing nonconforming lots which are consistent with the lot sizes in the neighborhood and were built prior to 1960. He also does not believe that approval of the variance would be in conflict with the Comprehensive Plan. Mr. Alkire further stated that approval of the variance would allow for two lots to continue as single-family lots with improvements to the property. He submitted a summary of his comments and documentation dated May 26, 1978, which was entered as Exhibit No. 2.
- 106 John Gregory, 6437 Sand Point Way, Seattle, Wa. 98102, one of the applicants, stated that he sold the subject property at 2704 - 63rd Avenue S.E. to Mr. Alkire in 1976. He feels the variance should be approved as it will be an improvement to the property. He submitted pictures of the property which were entered as Exhibit No. 3 A - D.
- 125 Omer Mithun, Mithun and Associates, 2000 - 112th Avenue N.E., Bellevue 98004, spoke in support of the variance request. He feels that the application meets all of the requirements for the granting of a variance and that construction of a new house on that lot would be an improvement to the neighborhood.
- 165 Discussion followed on the special circumstances for granting of this variance. Mr. Mithun believes that the small size of the lot is a special circumstance.
- 173 Bill Bastida, 4215 W. Mercer Way, Mercer Island 98040, stated that he feels the application should be approved because it will improve the neighborhood.
- 188 Mr. Bacon stated that the sale of the land from Mr. Gregory to Mr. Alkire may be illegal and that the City could take action to void the 1976 sale. He also stated that the Comprehensive Plan does not support the application.
- 204 Inez Potwin, Department of Community Development, stated that they have received several phone calls concerning the variance request and that they were agreeable to its approval.

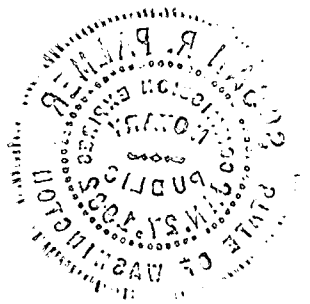
214 Mr. Gregory made rebuttal comments concerning the alleged  
illegal sale of his property to Mr. Alkire.

There was no one else present to speak on this matter.

259 The hearing on this application was concluded at 2:20 p.m.,  
May 26, 1978.

Note: This hearing was recorded on the Department of Community  
Development's recorder so that the tape count pertains to this  
recorder only.







GREGORY/ALKIRE VARIANCE

PARTIES OF RECORD:

Mr. Dennis Alkire  
926 - 12th Avenue East  
Seattle, Washington 98102

Mr. Jeff C. Ottesen  
General Delivery  
Soldotna, Ak. 99669

T. M. Motter  
2447 - 64th Avenue S.E.  
Mercer Island, Wa. 98040

Mr. Omer Mithun  
Mithun and Associates  
2000 - 112th Avenue N.E.  
Bellevue, Washington 98004

Ms. Florence Stenhouse  
6311 - S.E. 27th  
Mercer Island, Wa. 98040

Mr. Bill Bastida  
4215 W. Mercer Way  
Mercer Island, Wa. 98040

Mr. John Gregory  
6437 Sand Point Way  
Seattle, Washington 98101

Mr. and Mrs. George Raymond  
2462 - 63rd Avenue S.E.  
Mercer Island, Wa. 98040

Mr. Jerry Bacon  
Department of Comm. Dev.  
City of Mercer Island  
3505 - 88th Avenue S.E.  
Mercer Island, Wa. 98040

Mr. Steven S. Morgan  
2707 - 64th Avenue S.E.  
Mercer Island, Wa. 98040

Ms. Jennifer Chaney  
6314 S.E. 27th  
Mercer Island, Wa. 98040

RECEIVED  
HEARING EXAMINER

JUN 12 1978

WILLIAM BASTIDA

P.O. Box 319/Mercer Island, WA. 98040

ARCHITECT

area code (206) 232-5032

June 11, 1978

Mr. John L. Hendrickson  
Office of the Hearing Examiner  
P. O. Box 1768  
Bellevue, WA 98009

REFERENCE: Gregory/Alkire  
Variance Application

Dear Mr. Hendrickson:

I appreciate the additional information on the above mentioned variance application.

I would like to point out a very important fact which should be of prime consideration in the final decision on this variance. The lot in question was not subdivided to create a new building site; it has always been a separate piece of real estate, bought once by Mr. Gregory and subsequently sold to Mr. Alkire.

I must explain that even though I know Mr. Alkire, I have not been requested to act on his behalf. My response is only that of a concerned citizen, first for fairness and second for the aesthetical upgrading to a neighborhood which warrants it.

I respectfully request your serious consideration to the above items before your final decision is reached.

Sincerely yours,



William Bastida, Architect

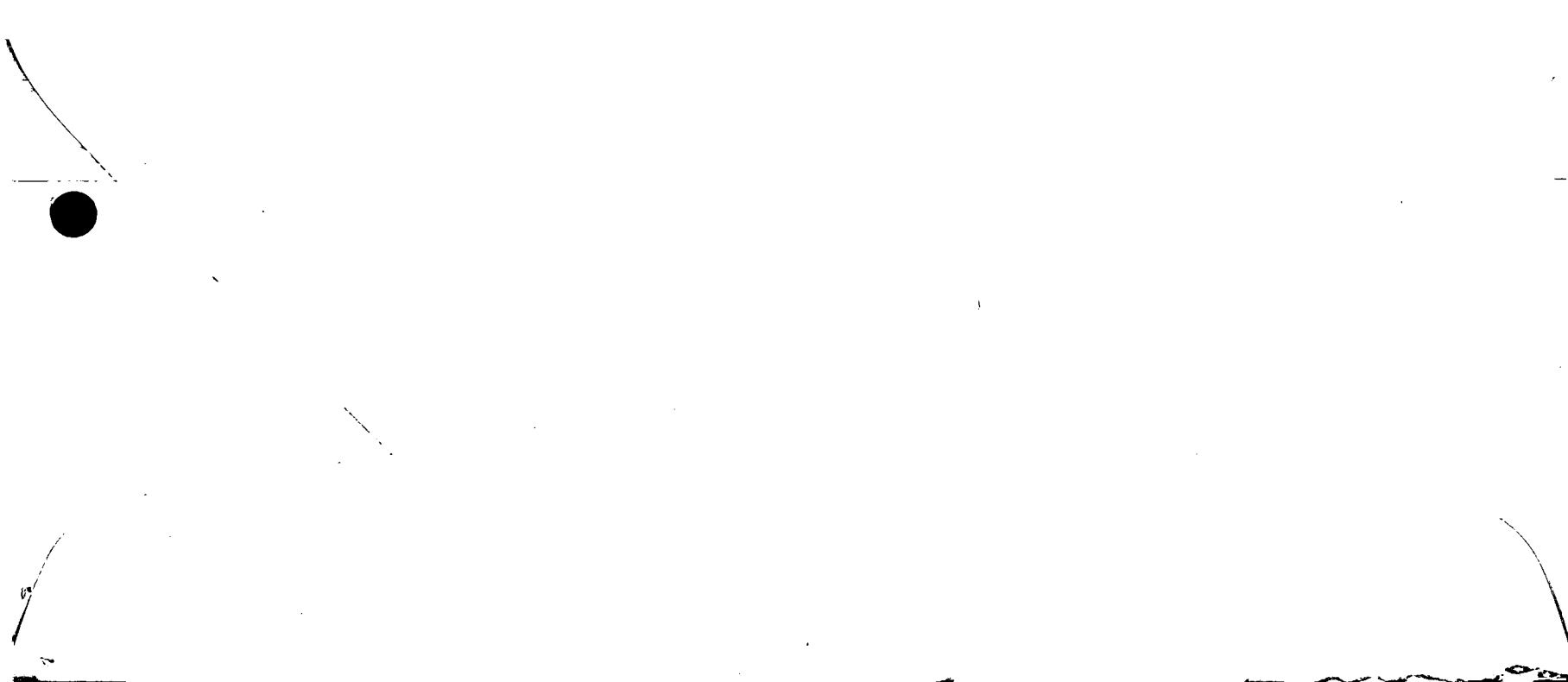
WILLIAM  ASTIDA

P.O. Box 319/Mercer Island, WA. 98040

ARCHITECT

area code (206) 232-5032

Mr. John L. Hendrickson  
Office of the Hearing Examiner  
P. O. Box 1768  
Bellevue, WA 98009





CITY OF BELLEVUE • Post Office Box 1768 • Bellevue, Washington • 98009  
Office of Hearing Examiner  
(206) 455-6934

June 5, 1978

TO WHOM IT MAY CONCERN:

On June 2, 1978, Dennis Alkire submitted additional information to the Hearing Examiner for consideration with regard to the Gregory/Alkire variance application. This application was heard before the Hearing Examiner on May 26, 1978, and concerns property located at 2704 - 63rd Avenue S.E.

Since the material was submitted subsequent to the hearing and is relevant to the issues involved in the application, additional time will be allowed for all parties of record to respond to this material. Consequently, if any party wishes to respond to the enclosed documents, they may do so in writing no later than 5:00 p.m., Monday, June 12, 1978. The response should be submitted to the above letterhead address.

The decision on this matter will be rendered subsequent to June 12, 1978.

Very truly yours,

John L. Hendrickson  
Hearing Examiner

JLH:sp  
Enc.

JUL 2 1978

2 June 1978

John Hendrickson  
Hearing Examiner for the City of Mercer Island  
P.O. Box 1768  
Bellevue, Wa. 98009

Subject: Gregory / Alkire lot size variance, heard 26 May 1978.

Dear Sir,

I am requesting to submit a corrected copy of the survey for the north portion (lots 14 & 15, and a portion of vacated street) of the subject property. This corrected survey, computed from a Survey of Record (enclosed) shows the area of the north lot to be 5544 s.f. The average elevation of the north lot is 4 to 6 feet higher than the south lot. The north lot appears larger than the numbers indicate as it is a corner lot, open to the south, yet well screened on the north and west with many trees and shrubs.

Thank you for considering this corrected exhibit.

Sincerely yours;

Dennis Alkire

Survey for Dennis Alkire

Address 926 - 12th Ave. E., Seattle, Washington 98102

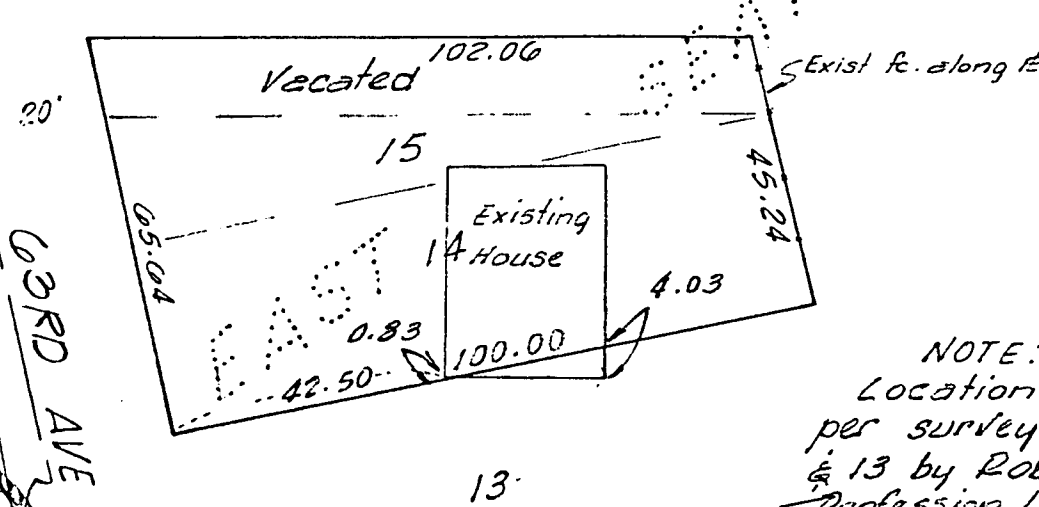
Legal Description: Lots 14 & 15, and a portion of vacated street adjoining, Block 21, East Seattle, according to plat recorded in Volume 3 of Plats, page 23, records of King County, Washington.

Area - 5544.07<sup>01</sup> or .127 Ac.

NOTE: Boundary as shown computed from Record of Survey Receiving No. 770909901.

N  
SCALE: 1" = 30'

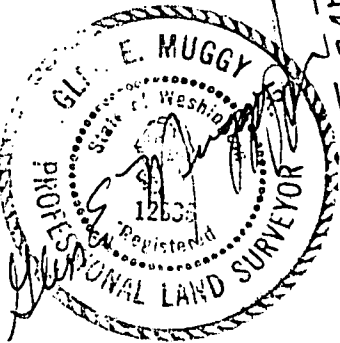
SE 27 ST.



NOTE: Location of house per survey of lots 12 & 13 by Robt. W. Jones Profession Land Surveyor

RECEIVED HEARING EXAMINER

JUL 2 1978



Field  
 Office TC  
 Checked  
 Property Corners  
 Date April 21, 1978

**TRIAD ASSOCIATES**  
 846-108th Ave. NE Bellevue, Wa. 454-0711

Revised 6/1/78 - bdry. change

RECEIVED  
HEARING EXAMINER

APR 10 1973

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GREGORY/ALKIRE VARIANCE

PARTIES OF RECORD:

Mr. Dennis Alkire  
926 - 12th Avenue E.  
Seattle, Wa. 98102

Mr. John Gregory  
6437 Sand Point Way  
Seattle, Wa. 98115

Mr. Jerry Bacon  
Dept. of community Development  
City of Mercer Island  
3505 - 88th Avenue S.E.  
Mercer Island, Wa. 98040

Mr. Omer Mithun  
Mithun and Associates  
2000 - 112th Avenue N.E.  
Bellevue, Wa. 98004

Mr. Bill Bastida  
4215 W. Mercer Way  
Mercer Island, Wa. 98040



CITY OF BELLEVUE  
OFFICE OF HEARING EXAMINER  
P.O. BOX 1768  
BELLEVUE, WASHINGTON 98009

EXHIBIT # 3A-D  
Hearing Examiner

Gregory / Alhine  
Lot Size Variance



WARRANTY FULFILLMENT DEED

THIS SPACE RESERVED FOR RECORDER'S USE

1978 FEB 6 11 30

DIRECTOR RECORDS & ELECTIONS KING COUNTY, WASHINGTON 2615 9th AVENUE, SEATTLE, WA

7802060130

Filed for Record at Request of AFTER RECORDING MAIL TO

NAME Mr. Dennis Alkire ADDRESS 926 17th Ave East CITY AND STATE Seattle, Wash 98102

THE GRANTOR JOHN N. GREGORY and ELEANOR B. GREGORY, his wife

for and in consideration of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION

in hand paid, conveys and warrants to DENNIS JAMES ALKIRE and AIDA ALKIRE, his wife, also known as AIDA M. ALKIRE the following described real estate, situated in the County of KING, State of Washington:

Lots 14 and 15, and a portion of vacated Street adjoining, Block 21, East Seattle, according to plat recorded in Volume 3 of Plats, page 23, in King County, Washington

278-31-119.com

This deed is given in fulfillment of that certain real estate contract between the parties hereto, dated October 1 19 76, and conditioned for the conveyance of the above described property, and the covenants of warranty herein contained shall not apply to any title, interest or encumbrance arising by, through or under the purchaser in said contract, and shall not apply to any taxes, assessments or other charges levied, assessed or becoming due subsequent to the date of said contract.

Dated October 1, 19 76

John N. Gregory (Individual) Eleanor B. Gregory (Individual)

By (President) By (Secretary)

STATE OF WASHINGTON COUNTY OF KING ss.

On this day personally appeared before me John N. Gregory & Eleanor B. Gregory to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this day of October, 19 76

Notary Public in and for the State of Washington, residing at

STATE OF WASHINGTON COUNTY OF ss.

On this day of 19 76 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared John N. Gregory and Eleanor B. Gregory to me known to be the President and Secretary, respectively, of

the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the State of Washington, residing at

SALES TAX PAID ON INSTRUMENT NO. 373782 DIVISION DEPUTY

**CITIZENS**FEDERAL SAVINGS & LOAN ASSOCIATION  
320 - 108th N.E. | P.O. BOX 1848, BELLEVUE, WA. 98004 | 447-6466

May 18, 1978

Mr. and Mrs. Dennis Alkire  
926-12th Avenue East  
Seattle, WA 98102

Dear Mr. and Mrs. Alkire:

This letter will serve as our 45 day commitment to extend a loan to you under the following terms and conditions:

Property: 2704-63rd Avenue SE Mercer Island, WA 98040  
Loan Amount: \$45,000.00  
Interest Rate: 9½% Terms: 29 years  
Loan Fee: 2½%

PRE-AUTHORIZED PAYMENT PROGRAM REQUIRED ON ALL LOANS

SUBJECT TO: 1. House must be completed per plans and specifications.  
2. Existing structure must be removed at borrower's own expense prior to new construction.

Our Federal Reserve Regulation Z is also enclosed. Please, sign, date, and return this disclosure for our file.

If you wish to proceed with this transaction, please sign the enclosed copy of this letter and return it to this office. Upon receipt, we will order title insurance and proceed with closing.

This loan must be closed no later than July 2, 1978. Our Deed of Trust must be of record by that date and insurable as a first lien against the subject property, or the loan application must be submitted to our loan committee as a new application. This commitment and all previous commitments, implied or written, become void on the above date.

Sincerely,

MICHELE M. OOSTERINK  
Loan Officer

ENCLOSURES

ACCEPTED THIS 19 DAY OF May, 1978.

BY:

SECTION 17. PREVIOUS USE AND OCCUPANCY PERMITS.

Where prior to May 25, 1959, special authority was granted for the establishment or conducting of a particular use on a particular site and for a specified period of time or as set forth in an action then titled Use and Occupancy, such previous permits are by this Section declared to be continued as a conditional use permit without specified time limit provided that if the particular use as is not otherwise permitted in the zone in which it is located, such established use and improvements incident thereto shall be considered under the terms of this Ordinance as a non-conforming use.

Ord. # 346 SECTION 18. VARIANCES.

18.01 AUTHORITY TO GRANT VARIANCE.

The Planning Commission shall have the authority to grant a variance from the provisions of this Ordinance when the conditions set forth in Sub-Section 18.02 have been found to exist. The action of the Planning Commission in granting or denying a variance shall be final and conclusive unless an appeal is filed in accordance with the provisions of Section 21 of this Ordinance.

18.02 REQUIRED SHOWING FOR VARIANCE:

Before any variance may be granted, all the following circumstances shall be found to apply:

- (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;
- (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.

16.03 BUILDING SITE REQUIREMENTS:

Ord.  
#  
46

1. Any lot may be used for a building site, regardless of area, subject to the other restrictions governing the zone in which it is located, if it came into existence before September 28, 1960.
2. The minimum lot frontage of irregularly shaped lots shall be measured at the front building line. No building will be permitted on a lot without frontage (a) on a public right-of-way or (b) on a private street or easement-of-way established by deeds of record and approved by the Planning Commission as substantially complying with the standards established for public streets.

Ord.  
#  
219

3. The determination whether a lot complies with the building site area requirements shall exclude the shorelands part of any such lot and/or any part of such lot which is part of a public or private street or is subject to an easement for use of motor vehicles.

Ord.  
#  
60

4. In subdivisions officially approved by the Planning Commission after April 9, 1972, under the provisions of Section 5, (8), Optional Standards for Development of Two Acres or More, City of Mercer Island Ordinance No. 59, the area of each lot shall be as approved by the Planning Commission but the average lot area shall not be less than 75 percent of the minimum lot area requirements of the use zone in which the subdivision is located, as set forth in Sections 4.04, 5.04, 6.04, 7.04, 8.04, 9.04 of this Ordinance No. 15.

16.04 YARD REQUIREMENTS:

1. Highway Border Districts are hereby established and shall be a part of this Ordinance as each of such districts and maps are developed and approved by the City Council following a recommendation of the Planning Commission and the front, side and rear yard regulations shown on such maps shall supersede the yard requirements contained in other provisions of the Ordinance.
2. Where official highway maps show the future width greater than the dedicated width, then the front yard shall be measured from the margin of the future highway width.
3. Porches, terraces, chimney and fireplace extensions and outside stairways--unroofed, unenclosed, above



Map of neighborhood surrounding subject property.

Base map: photocopy of King County Assessor Map

Scale: 1" = 100'

Legend:

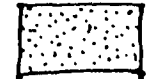
Subject Property:



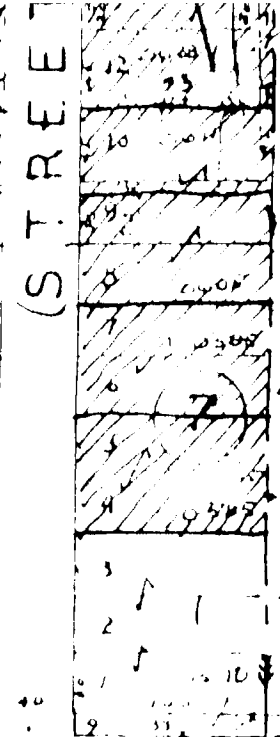
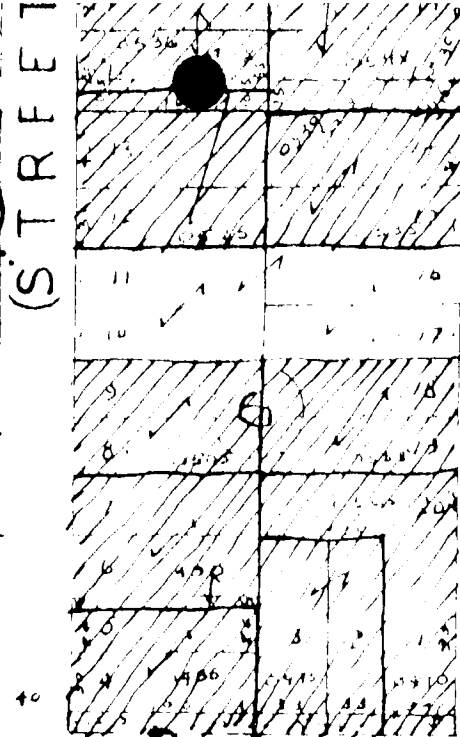
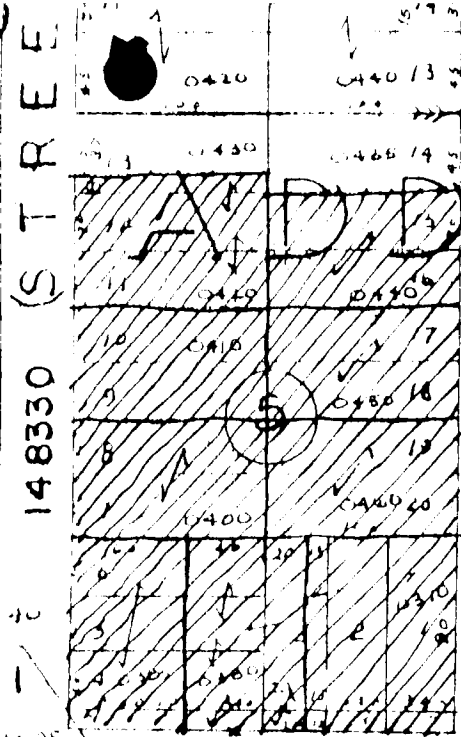
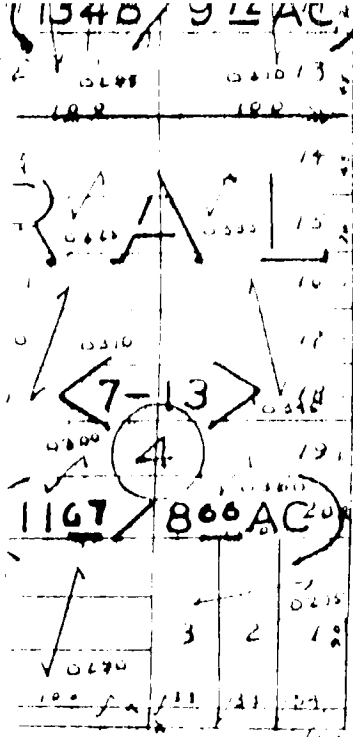
Lots with area less than 8400 S.F.:



City Owned:



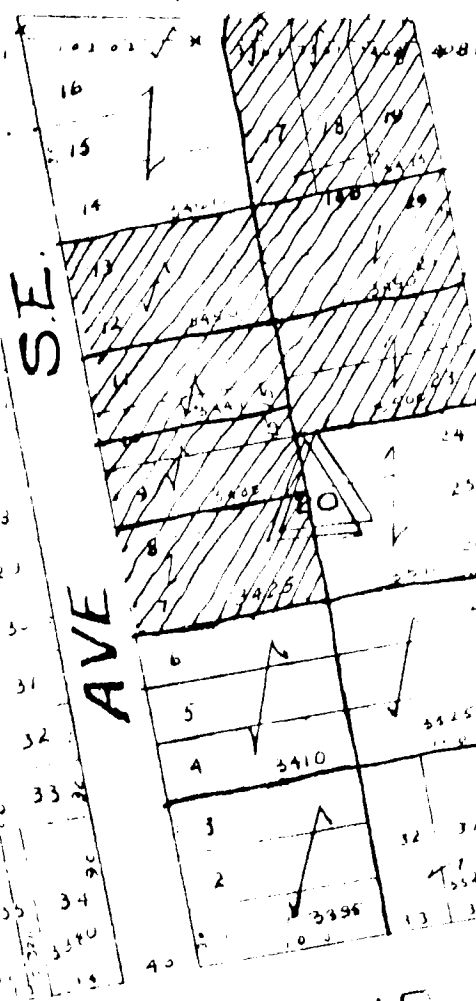
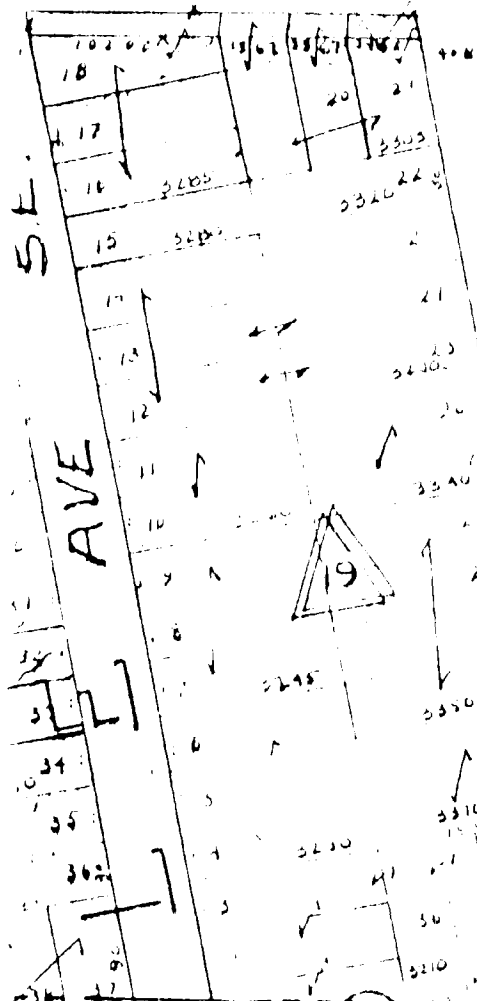
Comment: Within a 300' radius of subject property there are 44 lots. 33 lots (75%) have an area less than 8400 S.F. 11 lots (25%) are 8400 S.F. or more.



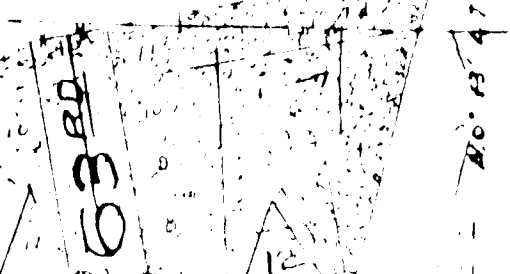
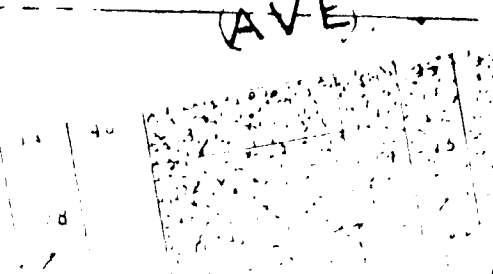
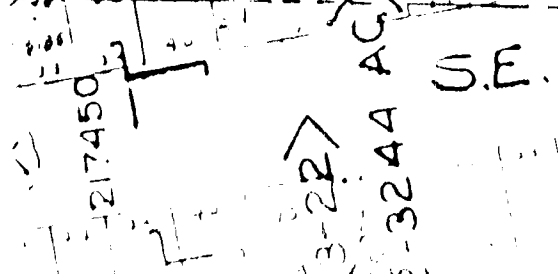
S.E. (34 30 AC 41.40 AC)

(AVE)

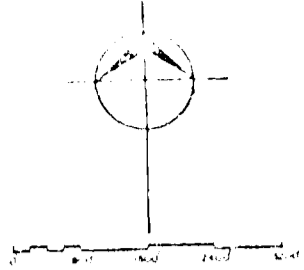
27<sup>TH</sup> ST



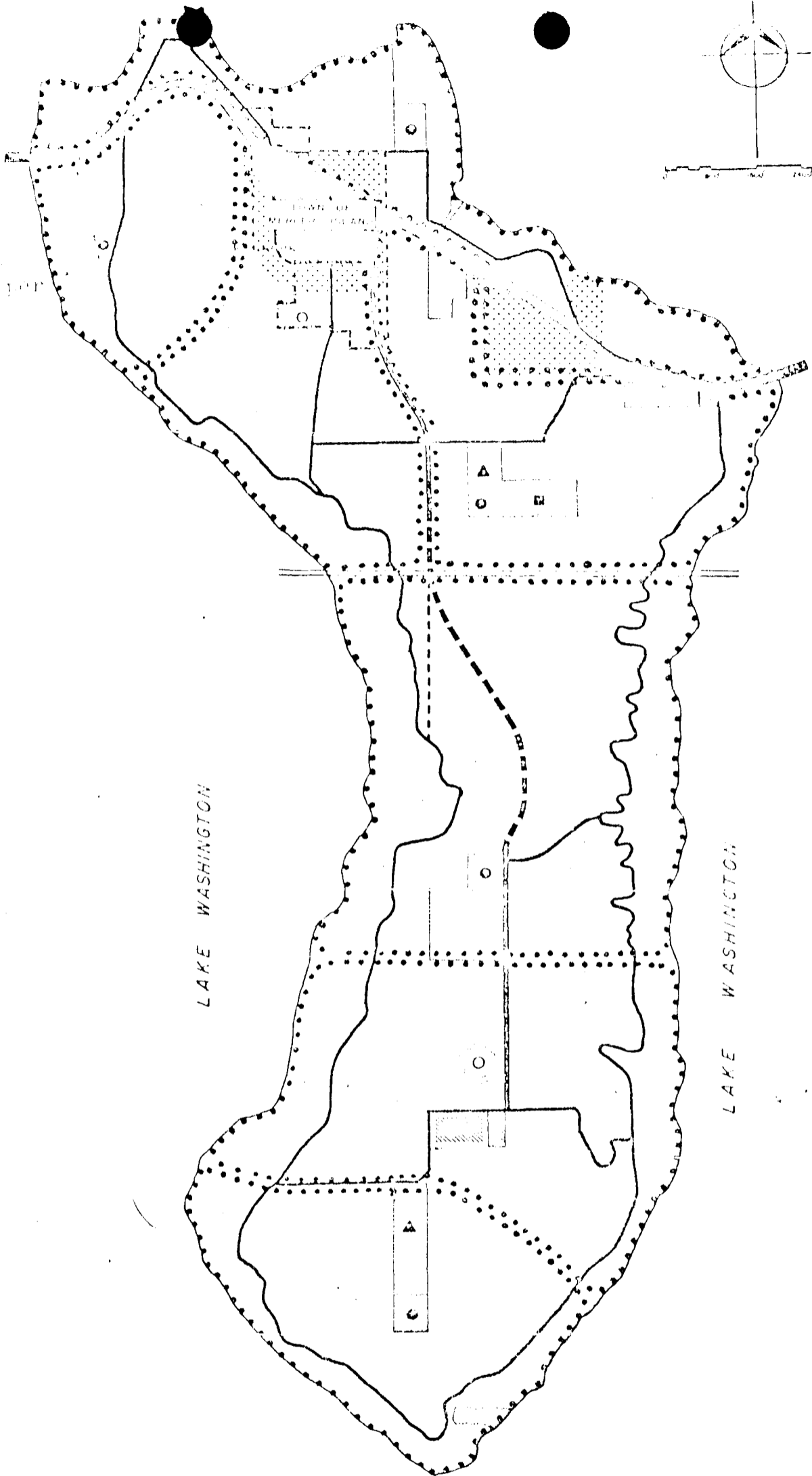
28<sup>TH</sup> ST



BLINN GATH AVES



4 or more families per acre



CITY OF MERCER ISLAND COMPREHENSIVE PLAN

<p>RESIDENTIAL</p> <p>XXX TWO FAMILIES PER ACRE</p> <p>THREE " " " "</p> <p>FOUR OR MORE " " " "</p> <p>MULTI-FAM</p> <p>BUSINESS &amp; COMMERCIAL</p> <p>RETAIL BUSINESS</p> <p>PLANNED BUSINESS CENTER WITH PARK BUFFER</p>	<p>COMMERCIAL OFFICES</p> <p>SCHOOLS</p> <p>EXISTING PROPOSED</p> <p>SR HIGH</p> <p>JR HIGH</p> <p>ELEMENTARY</p>	<p>PARKS</p> <p>EXISTING PROPOSED</p> <p>ROADS</p> <p>EXISTING PROPOSED</p> <p>FREEWAY OR MAJOR HWY</p> <p>COLLECTOR ARTERIAL ST</p> <p>MINOR ARTERIAL ST</p> <p>COMMUNITY BOUNDARY</p> <p>NEIGHBORHOOD BOUNDARY</p>
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EXHIBIT #2  
Hearing Examiner

Sumbitted to the  
HEARING EXAMINER  
for the City of Mercer Island

By the Applicants for Variance  
John Gregory / Dennis Alkire

May 26, 1978

The location of the subject property is 2704 - 63rd Avenue Southeast, Mercer Island (Alkire), and 2708 - 63rd Avenue Southeast, Mercer Island (Gregory).

The property is an area originally comprised of two legal lots platted by King County. Each lot has a dwelling on it which has existed since before 1960. Each lot has had separate ownership until 1964 when Mr. Gregory bought the north lot. He has owned the south lot since 1958. Mr. Gregory sold the north lot to the Alkires in 1976 (1), and they occupied the house after the purchase.

The Alkires plan to replace the dwelling on their property with a new home for the family. Before beginning, and during the preparation of the plans and specifications, Mr. Alkire spoke with city officials several times. No question of past ownership of the lot was raised.

On April 13, 1978 when Mr. Alkire went to the City offices to apply for a permit (2) which was issued, the subject of past ownership by an adjacent property owner was bought up by a member of the planning staff. The next week, Mr. Gregory and Mr. Alkire met with a member of the planning staff. It was decided that a variance would be required. At this point in time, plans and specifications are complete, a contract has been signed for construction, and financing arranged. (3).

1. See attached Exhibit No. 1 - Copy of Warranty Fulfillment Deed
2. City of Mercer Island Building-Use Permit No. D-007-78, issued April 13, 1978.
3. See attached Exhibit No. 2 - Copy of Loan Commitment

The applicants for the variance, Mr. Alkire and Mr. Gregory, present the required showing for Variance (1)

The variance requested may be granted, as all of the following circumstances shall be found to apply:

- (a) The special circumstances\* pertaining to the physical condition of the subject property are, that is comprised of two pre-existing (legal non-conforming) lots, (2) consistent in size with other lots in the neighborhood, (3) and that each lot has a dwelling on it, which came into existence before September, 1960.
- (b) Variance approval would not be detrimental to the public welfare nor injurious to property in the vicinity.
- (c) Variance approval would not alter neighborhood character nor impair use of adjacent property.
- (d) Variance approval does not conflict with the general purposes and objectives of the Comprehensive Plan.\*\* Approval allows continuation of the historical and current pattern of land use of the property as two separate single-family lots. Single-family is the most appropriate use. As part of the original King County plat, these lots are consistent in size with the neighborhood and with the Comprehensive Plan which allows four or more families per acre in an R. 8.4 Zone. (4) Because each lot presently has a dwelling on it, density is not increased. All other elements of the plan remain unchanged.

1. Mercer Island Zoning Code, 18.02 (a) (b) (c) (d) p.48  
\* 18.02 (a) states that size is a special circumstance.
2. Mercer Island Zoning Code, 16.03, (1) p.44 (copy attached)
3. See Exhibit No. 3 - Attached copy of vicinity map. Also see staff summary, items 6 and 7.
- \*\* The Plan states that "-----it will be the policy to protect and encourage the development of several types of residential areas in varying population densities."
4. Mercer Island Comprehensive Plan map. (copy attached)

On the basis of the preceeding, the applicants request that the variance be granted.

Granting the variance confirms that the two properties are separate legal lots. It assures the ongoing uses of the two lots, each with a home and a family, with no change in density. Each lot will continue to exist as a separate titled property, with no change in any lot line or legal description. Variance approval will allow in the improvement of property by permitting the replacement of an old house with a new home, which will benefit the neighborhood and the city.

This document is respectfully submitted to the Hearing Examiner for the City of Mercer Island.

Prepared and signed by the applicants:

John Gregory  
Mr. John Gregory

May 26 1978  
Date

Dennis Alkire  
Mr. Dennis Alkire

CITY OF MERCER ISLAND  
HEARING EXAMINER

PUBLIC HEARING

May 26, 1978 (1:30 p. m.)  
Public Safety Building Conference Room  
3505 88th Avenue S. E.

AGENDA

PUBLIC HEARING:

- JOHN GREGORY/DENNIS ALKIRE  
2704 AND 2708 63RD AVENUE S. E.  
LOT SIZE VARIANCE -  
STAFF REPORT, VICINITY MAP, PLOT  
PLAN ENCLOSED.

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ADJOURNMENT.



CITY OF MERCER ISLAND  
HEARING EXAMINER

STAFF REPORT

APPLICANT: JOHN GREGORY/DENNIS ALKIRE

LOCATION: 2704 - 63RD AVENUE S. E.

ZONING: R-8.4 (8,400 SQ. FT. MINIMUM LOT SIZE)

APPLICABLE SECTION OF CODES: ZONING CODE (ORDINANCE NO. 15), SECTIONS 4.04, 16.03(1), AND 18.02

HEARING DATE: MAY 26, 1978

EXHIBITS: STAFF REPORT, VICINITY MAP, PLOT PLAN, ORIGINAL SECTION 18.02 OF ZONING CODE IN EFFECT PRIOR TO JANUARY, 1974

RESPONSIBLE STAFF: GLENN CARR, CODE OFFICIAL  
INEZ POTWIN, PLANNING TECHNICIAN

REQUEST: REQUEST TWO VARIANCES OF 2,400 SQ. FT. AND 3,075 SQ. FT., RESPECTIVELY, TO CREATE TWO LOTS IN AN R-8.4 ZONE.

STAFF SUMMARY:

1. Subject property is an 11,325 sq. ft. lot on which two dwellings have existed since 1958. It is comprised of Lots 12, 13, 14, and 15, Block 21, East Seattle Addition. The request is to create one 5,325 sq. ft. lot (Lots 14 and 15, and portion of vacated street) and one 6,000 sq. ft. lot (Lots 12 and 13).
2. The proposed northerly lot of 5,325 sq. ft. contains an existing cottage constructed prior to 1925. This cottage has been used as a rental property in recent years but now is in a dilapidated condition and unoccupied.
3. The proposed, 6,000 sq. ft. southerly lot contains an occupied rental dwelling constructed in 1958 by the present owner for rental purposes.
4. Mr. Gregory sold the proposed northerly lot to Mr. Alkire in January, 1978. The principals state they did not know the Zoning Code requirements at that time and were unaware of the illegality of the sale.
5. Mr. Alkire has planned to demolish the existing dilapidated cottage on the northerly proposed lot this summer and replace it with a new dwelling for himself and his family.
6. The applicants state that the proposed lot division, while it would not conform to existing lot size requirements, would conform to the existing neighborhood. Of 91 lots in a 5-1/2 block area surrounding the subject property, 63 (or 75 percent) are smaller than the 8,400 sq. ft. minimum lot

size required in this residential zone, with 23 (25 percent) being 8,400 sq. ft. or larger. Lot sizes in this 5-1/2 block area range from 2,800 sq. ft. to 15,000 sq. ft., with the average of the 91 lots being 6,815 sq. ft. A total of 33 lots are 6,000 sq. ft. in size (a carryover of King County Zone R-6 which existed prior to city incorporation and adoption of the Mercer Island Zoning Code in 1960, at which time this area was zoned R-8.4).

Of the 91 lots in this 5-1/2 block area, 11 lots are smaller than the proposed 5,325 sq. ft. northerly lot. The sizes of these non-conforming lots are as follows: 4,500 sq. ft. (1); 3,400 sq. ft. (3); 3,000 sq. ft. (6); 2,800 sq. ft. (1). Of the 91 lots under discussion, 79 are larger than the proposed 5,325 sq. ft. lot.

7. In Block 21, East Seattle, the block in which the subject property is located, approximate lot areas are as follows: 12,000 sq. ft. (1); 9,000 sq. ft. (2); 8,000 sq. ft. (3); 6,000 sq. ft. (5); 3,400 sq. ft. (1).

In Block 20, East Seattle, the block to the west of the subject property, between S. E. 27th Street and S. E. 28th Street, and between 62nd Avenue S. E. and 63rd Avenue S. E., approximate lot sizes are as follows: 11,000 sq. ft. (1); 9,000 sq. ft. (6); 6,000 sq. ft. (3); 4,800 sq. ft. (1); 4,200 sq. ft. (1); 3,000 sq. ft. (2).

In the block to the north of subject property, between S. E. 24th Street and S. E. 27th Street and between 63rd Avenue S. E. and 64th Avenue S. E., approximate lot sizes are as follows: 12,000 sq. ft. (1); 7,500 sq. ft. (2); 6,600 sq. ft. (3); 6,000 sq. ft. (14); 3,400 sq. ft. (1); 3,000 sq. ft. (1).

8. A. Since 1960, the City of Mercer Island has approved five and denied one lot-size variance requests in the vicinity of the subject request. These were as follows:
  1. January, 1962: Bert Robinson, 2469 63rd Avenue S. E. Created three building sites of 6,150 sq. ft., 6,150 sq. ft., and 8,200 sq. ft., respectively. Approved.
  2. March, 1964: Virginia Younger, east side of 63rd Avenue S., E., approximately 240 feet south of S. E. 24th Street. Created two building sites of 6,000 sq. ft. and 12,000 sq. ft., respectively. Approved.
  3. December, 1968: H. Norman Hyatt, south end of S. E. 24th Street, between 61st Avenue S. E. and 62nd Avenue S. E. Created two 6,000 sq. ft. building lots. Approved.
  4. November, 1975: William Kelso, Lots 1-5, Block 18, East Seattle (next to multiple family dwellings). Created two 7,500 sq. ft. lots. Approved.

HEARING EXAMINER STAFF REPORT  
GREGORY/ALKIRE  
MAY 26, 1978 (PAGE THREE)

5. March, 1976: Donovan Williams, Lots 20, 21, 22, 23, and 24, Block 15, East Seattle.  
Created two 7,500 sq. ft. lots. Approved.
6. April, 1977: Gary McCormick, West Mercer Way between S. E. 28th Street and S. E. 30th Street.  
Proposed creating two lots, 7,500 sq. ft. and 7,125 sq. ft., respectively. Denied.
- B. The first three lot-size variance requests described above were approved prior to January, 1974, the date of adoption of Ordinance No. 346 which sets forth the current required showings for variance approval as listed in Section 18.02 of the Zoning Code (Ordinance No. 15). These three earlier variances were approved on a different set of criteria from those now existing. (See attached copy of Section 18.02 of the Zoning Code which was in effect prior to January, 1974.)
- C. The two latter approved lot-size variances listed above created four 7,500 sq. ft. lots, two of them adjacent to a multi-family zone (an apartment and a duplex).
9. No lot smaller in size than 6,000 sq. ft. has ever been created by means of the variance process since the City of Mercer Island Zoning Code was adopted in 1960.

STAFF RECOMMENDATION:

1. Special circumstances:

There are no special circumstances pertaining to the physical conditions of subject lot.

2. Not materially detrimental to public welfare or injurious to property in vicinity:

Variance approval would not be detrimental to the public welfare or injurious to property in the vicinity.

3. Not alter character of the neighborhood nor impair use of adjacent property:

Variance approval would not alter neighborhood character nor impair use of adjacent property.

4. Not conflict with general purposes and objectives of the Comprehensive Plan:

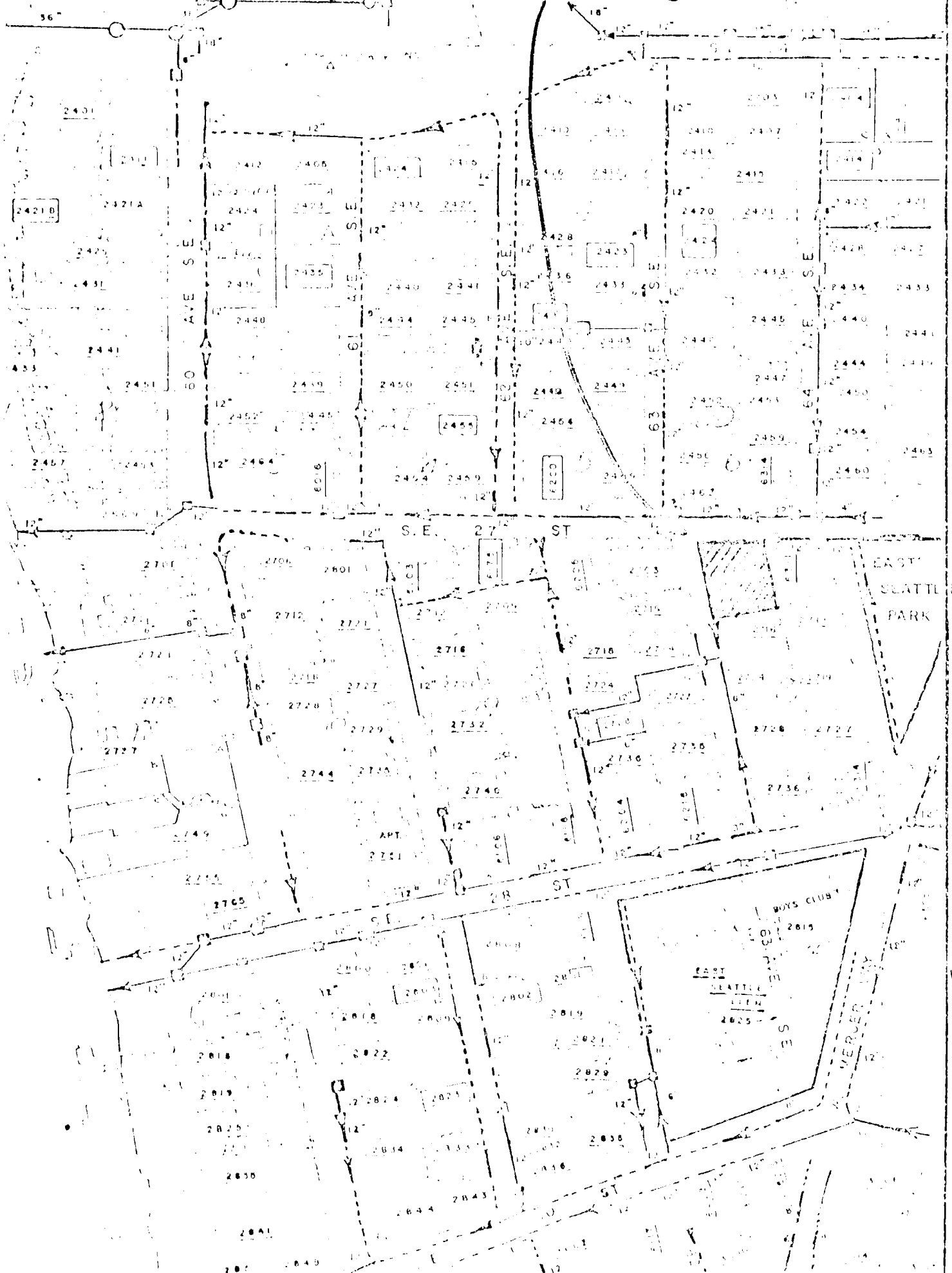
Staff believes that approval of this request to create one 5,325 sq. ft., and one 6,000 sq. ft., lot would conflict with the general purposes and objectives of the Mercer Island Comprehensive Plan. The intent of the upzoning of the

HEARING EXAMINER STAFF REPORT  
GREGORY/ALKIRE  
MAY 26, 1978 (PAGE FOUR)

area from the pre-1960 King County R-6 zoning to Mercer Island R-8.4 zoning was that the smaller size properties would eventually exhaust their life span, being replaced in the future as dwellings deteriorated by lots of sizes more in line with the Plan's density provisions. In effect, this is what has occurred in the subject proposed 5,325 sq. ft. lot, where a cottage built prior to 1925 is now in a dilapidated and unusable condition. Thus, inasmuch as the cottage has surpassed its apparent natural life span, and is suitable only for demolition, the creation of two lots on this property would increase the density of the area in view of the provisions of the Comprehensive Plan.

On the basis of the above, staff recommends denial of this variance application.

# GREGORY-ALFIRE



Survey for Dennis Alkire

Address 926 - 12th Ave. E., Seattle, Washington 98108

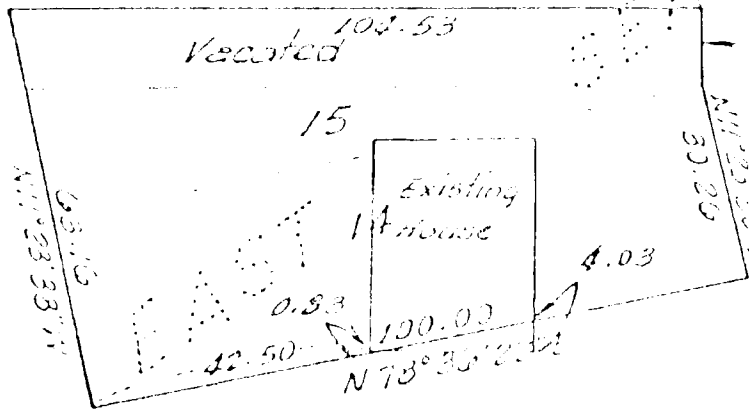
Legal Description: Lots 14 & 15, and a portion of vacated street adjoining, Block 21, East Seattle, according to plat recorded in Volume 3 of Plats, page 23, records of King County, Washington

Area - 5324.496<sup>sq</sup> ft or .122 Ac.

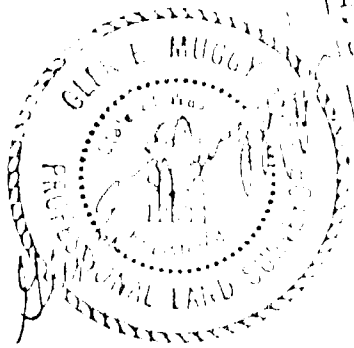


SE 27 ST.

North



NOTE:  
Location of the  
per survey of lot  
& 13 by Robert W. ...  
Professional Land Surveyor



Field  
Office TC  
Checked  
Property  
Corners  
Date April 21, 1978

**TRIAD ASSOCIATES**  
846-108th Ave. NE Bellevue, Wa. 454-0711

63 SE AVE SE

20'

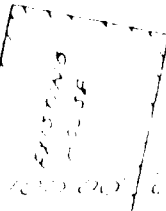
60.00'

20'

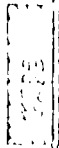
60.00'

□ - DENOTES STAKE SET

S.W. CORNER OF  
BLOCK 15, DIST.  
NORTH  
5244



S.W. CORNER OF BLOCK  
15, DIST. 23, SOUTH OF NORTH  
AVENUE



100.00'

100.00' x 60.00'  
SOUTH OF NORTH  
AVENUE

I certify that this survey of Lots 12 and 13, Block 11,  
East Seattle is correct according to Plat thereof recorded  
in Volume 5 of Plats, page 24, records of King County, Wash-  
ington and that there are no encroachments or other claims  
on above shown.

Job #1152  
FB 124-A, page 39  
1/20/58



*Robert W. ...*

ROBERT W. ...  
PROPERTY SURVEYOR  
& LAND MEASURER

237-7287

CITY OF MERCER ISLAND  
Department of Community Development

B-1

APPLICATION FOR VARIANCE

(Note to Applicant: Before preparing the application, please read information and instructions on Page 4.)

Name of Applicant: Alkire / Gregory  
a  
Mailing Address: 926 12 th. Ave. E. Seattle, WA. 98102  
Phone: work 454-3344 Date of Filing: 24 April 1978  
home 329-2605

TO THE HEARING EXAMINER:

The undersigned applicants        (Xs/are) the owners        of the property described as follows:

Alkire: Lots 14 and 15, and a portion of vacated street adjoining, Block 21,  
East Seattle; Gregory: Lots 12 and 13, Block 21, East Seattle. Both properties  
according to plat recorded in Volume 3 of Plats, pages 22 and 23, King Co. WA..  
(Give legal description, including lot, block, tract, etc.)

The property for which this application is made is located at: (Give street address, if any, or location by reference to streets, alleys, property lines, etc.)

The north-west corner of Block 21, East Seattle, bounded on the west by  
63rd Ave. S.E., and on the north by ~~XXXXX~~ S.E. 27th. Addresses are  
(Alkire) (Gregory)  
2704 and 2708 1/2 63rd Ave. S.E..

Above-described property was acquired by applicant        on the        day of       , 19       . The present zoning of subject property is: R-8.4.  
See attached description of acquisition.

REQUEST: Applicant s request        a variance on the above-described property for the following reasons. State exactly what is intended to be done on, or with, the property which does not conform to existing zoning regulations. State precisely what adjustment is sought.

The applicants request a variance on the area of the owned property, confirming  
the existance of each being a legal lot. It is the intention of Mr. Alkire to  
replace the old house on his lot with a new single-family personal home.

Mr. Gregory's house and lot will not change.



NOTE TO APPLICANT: The hearing Examiner is required by law to make written findings of fact from the showing applicant makes, from testimony or evidence, and from information contained on this form that, beyond reasonable doubt, the below enumerated conditions apply to the subject property. State in detail in what respects the facts pertaining to the property or its intended use meet these required showings. (Use additional sheets, if necessary.)

- 1. That because of the conditions recited below, 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:

The subject properties are part of the early King County plat and conform with this plat. Seperate dwellings have occupied each lot since before 1959.

- 2. The granting of the variance will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property:

The neighborhood character reflects the early plat. The variance permits continued use of the lots consistant with the surrounding properties.

- 3. 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 subject property is situated for the following reasons:

The variance will allow for improvement of property which benefits the community.

- 4. The granting of the variance will not conflict with the general purposes and objectives of the comprehensive general plan for the following reasons:

All elements of the comprenhivise plan are satisfied. Land use and density remain unchanged. The request is consistant with lot sizes in the area.

- 5. Can subject property not be reasonably used under the provisions of the zoning ordinance? If your answer is "no," explain why:

No. The original platted lots do not conform with the current lot size requirements, but do conform to the existing neighborhood. By recognising two separate legal lots the variance will permit the replacement of a single-family residence which will improve the appearance for the neighborhood.

ATTACHMENT TO APPLICATION FOR VARIANCE

ALKIRE / GREGORY

Description of acquisition

Mr. Gregory's mother owned both lots from 1925. The house on the north lot existed at that time. Mr. Gregory and his sister co-owned the lots from 1949. In 1958 Mr. Gregory bought his sisters share of the south lot and built a house that same year. In 1964 he bought his sisters share of the north lot. Mr. Alkire bought the north lot in 1976.

A F F I D A V I T

STATE OF WASHINGTON )  
                                  ) ss  
COUNTY OF KING )

John N. Gregory & Dennis J. Alkire, being duly sworn, depose and say that we are the owners of the property involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are, in all respects, true and correct to the best of our knowledge and belief.

John N. Gregory  
(Owner) ~~4780 1st Ave S~~  
6347 SAND PT. WAY NE SEATTLE 98115

Dennis James Alkire  
(Owner) 926 12th Ave E Seattle 98102

Mr. Gregory / Mr. Alkire work  
522-2968 / 454-3344  
(Telephone)

(Mailing Address)

Subscribed and sworn to before me this 24<sup>th</sup> day of April, 1978.

Edith C Berry  
Notary Public

\*\*\*\*\*

C E R T I F I C A T I O N

This is to certify that the foregoing application has been inspected by me and found to be thorough and complete in every particular and to conform to the rules and regulations of the Hearing Examiner governing the filing of such application.

By: [Signature]  
Staff for the Hearing Examiner

✓  
Excerpt from Mercer Island Zoning Code  
Ordinance No. 15 which was in effect  
until January 17, 1974.

SECTION 18. VARIANCES.  
18.01 AUTHORITY TO GRANT VARIANCE:

The City Council, on the recommendation of the Planning Commission, shall have the authority to grant a variance from the provisions of this Ordinance when the conditions set forth in sub-section 18.02 herein have been found to exist.

18.02 REQUIRED SHOWING FOR VARIANCE.

Before any variance may be granted, it shall be shown:

- (a) That there are special circumstances applicable to the particular lot or tract, such as shape, topography, location or surroundings, that do not apply generally to other property in the same vicinity and zone;
- (b) That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by or available to other property in the same vicinity and zone but which because of special circumstances is denied to the particular lot or tract;
- (c) That the granting of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity of the particular lot or tract;
- (d) That the granting of such variance will not adversely affect the comprehensive plan.

File w/  
Alkire / Gregory  
Variance