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AFTER RECORDING RETURN TO:  
SKAGIT COUNTY HEARING EXAMINER  
302 SOUTH FIRST STREET  
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER ON VARIANCE APPLICATION VA 00 0837

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: JOHN THOMAS

ASSESSOR PARCEL NO: P27572, P27570, P108235

ABBREVIATED LEGAL DESCRIPTION: located at 845 Burlingame Road, Mount Vernon, WA; within a portion of the SW 1/4 of the SE 1/4 of Section 22, Township 34 North, Range 04 East, W.M., Skagit County, Washington.

**SKAGIT COUNTY HEARING EXAMINER**  
**STATE OF WASHINGTON**

In the Matter of the Application of  
**JOHN THOMAS**

VA 00-0837

For a Variance to Allow the Creation  
Of Lots Exceeding the Maximum Lot  
Size in an Urban Growth Area, at  
845 Burlingame Road.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND DECISION**

THIS MATTER, an application for a variance, came on regularly for hearing on March 28, 2001, after due notice. Marge Swint appeared for the Planning and Permit Center. John Thomas represented himself. Gloria Rivera, Planner, spoke for the City of Mount Vernon. Members of the public were given an opportunity to be heard.

From the testimony given, exhibits admitted, and argument made, the Examiner enters the following:

**FINDINGS OF FACT**

1. John Thomas (applicant) seeks to divide 20 acres by splitting off a 2.5 acre lot and leaving the rest intact. The property is within the Urban Growth Area of the City of Mount Vernon, at 845 Burlingame Road.

2. The specific vehicle for the land division contemplated is a short plat. However, the 1997 Comprehensive Plan and Interim Ordinance #16559 established the maximum lot size in an Urban Growth Area as four (4) or more residential dwelling units per acre.

3. Therefore, the applicant requests a variance to allow a short plat consisting of one 2.5 acre lot and another 17.5 acre lot. The purpose is to create a separate lot for the 2.5 acres in the northeast corner of the property that currently encompasses his home, shop, temporary mobile home and a couple of small outbuildings. The remaining 17.5 acres is currently undeveloped and has been placed in the Open Space Taxation Program.

4. The application was deemed complete on January 18, 2001. Notice by publication was given and property owners within 300 feet of the property were notified by mail. There was no public testimony at the hearing and the file reflects no opposition or concern from neighbors.

5. The site is primarily a north/south oriented rectangle. Access is provided by a 30 foot wide private road off of Burlingame Road to the east. The applicant has a



graveled circular driveway that serves his house. The residential portion of the property is connected to a public water supply and has an on-site sewage system.

6. The topography is essentially flat. Except for the area that has been developed, the property is wooded. A site visit disclosed a Type 5 stream and related indicators of riparian wetlands.

7. The site is not within a Flood Hazard Zone, nor is it adjacent to natural resource designated lands. The area to the south is within the Mount Vernon city limits and is developed in single-family residences and a golf course (Eaglemont). The area to the east is partially developed with lots ranging in size from two acres to six acres. To the north and west are mostly large undeveloped tracts.

8. To the north the applicant has an apparently undeveloped 60-foot easement that connects the applicant's property with the Mount Vernon-Big Lake Road. To the south, the applicant has an agreement contemplating eventual access from the Eaglemont development.

9. The County and the City of Mount Vernon have an agreement under which applications within the Urban Growth Area (UGA) for the city are processed under the provisions of Mt. Vernon's ordinances. The Mount Vernon Comprehensive Plan gives a SF-MED (single family-medium density) designation to the Burlingame Road area within the UGA. There are two implementing zoning designations for SF-MED, allowing densities of 3 and 4.5 dwelling units per acre.

10. The requested 2.5 acre lot (Lot 1) measures approximately 300 by 400 feet. The applicant states that the size is the minimum that will fully accommodate all of the existing amenities. The west property line will be the minimum setback distance from the shop. The south property line will be the minimum distance from the underground utilities. The north and east boundaries will be the present property lines.

11. The application was routed to appropriate County departments and to the City of Mount Vernon for review. No significant concerns were expressed at the County level. The City fire department had no objection to the short plat, provided that required fire flow and hydrants as well as street access are provided upon development of the larger lot (Lot 2). The City Department of Community and Economic Development recommended approval subject to a condition calling for an agreement that future development of Lot 2 provide for full urban services at a minimum density of four (4) units per acre.

12. John and Sandra Thomas purchased this property in 1983 and have developed the residential area over time. Their principal aim now is simply to create a lot that will contain all of the residential amenities installed when they were living in what they thought was the country. Their intention is that eventually the 17.5 acre area (Lot 2) will be developed to urban standards and with urban density.



13. The applicable variance criteria are those from Mount Vernon Municipal Code 17.105.060. They are as follows:

(1) That the variance shall not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and the zone in which the subject property is located.

(2) The such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the abutting property is located.

(3) That granting of such variance will not be detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is situated.

14. At some time during the review process, the City requested that a "shadow plat" be provided showing potential future development at a density of four units per acre. The "shadow plat" would be recorded with the short plat to provide notice of possible building site restrictions. The "shadow plat" would provide for urban level utilities and infrastructure.

15. The concept appears to be that a large-lot short plat is justified at the present time while the area lacks full urban services, such as sanitary sewers, but that shadow platting is needed to evidence the fact that urban densities can and should be met by any development that occurs later when infrastructure is available to accommodate it.

16. At present, large-lot platting is consistent with surrounding development. Thus, it would not constitute a grant of special privilege. The special circumstances relate to the size and location of the subject property. The short plat proposed would provide the same rights and privileges other properties in the vicinity enjoy. There is no evidence that the size of the proposed lots would be injurious to other property or improvements in the vicinity.

17. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the parties and the subject matter of the proceeding.



2. The proposal is exempt from the requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(b).

3. The potential short plat does not, in fact, contemplate any development at all. It is merely a way of separating out a "home lot" to be retained as it evolved historically, while making the remainder of the property available for development at contemplated urban densities. In addition, any further division of the "home lot" for development purposes will also need to meet these densities.

4. The "shadow platting" concept is in substance just a graphic form of notice that any future development of the lots will be obliged to provide for full urban services at a minimum density of 4 units per acre.

5. Thus, the "shadow plat" filed will be advisory only. It will exemplify a development that would meet density standards, but not necessarily reflect the exact development that would actually be proposed and built. Devices, such as clustering, for achieving density objectives in the face of site constraints would continue to be available to provide flexibility for the eventual design of SF-MED development.

6. Ultimately, the "shadow platting" device insures that the requested large lot short plat is not injurious to the public welfare. The purpose is to avoid the perpetuation of a density scheme that is at odds with growth management planning objectives expressed through the Comprehensive Plan. It provides notice that the current short plat is a transitional step toward eventual full urbanization.

7. As conditioned, the proposed lots will meet the variance criteria of the City of Mount Vernon. MVMC 17.105.060.

8. The following conditions should be imposed:

(1) This variance approves as to size Lots 1 and 2 shown on the drawings submitted.

(2) Prior to the conveyance of any parcel, a short subdivision application will need to be submitted and approved.

(3) The variance number and date of approval shall appear on the face of any short plat approved.

(4) Prior to the conveyance of any parcel or prior to any further development within the short plat, whichever comes first, the applicant shall execute a development agreement providing that:

(a) Any future development of Lots 1 or 2 shall provide for full urban services at a minimum density of 4 units per acre.

(b) Urban services shall include the fire flow and access requirements specified by the City of Mount Vernon Fire



Department.

The agreement shall run with the land

(5) With any short plat approved, the applicant shall provide and record a shadow plat for both lots that illustrates future compliance with the density of four units per acre. The shadow plat must accommodate full urban utilities and infrastructure for the property buildout. The shadow plat will serve as notice of lot size and density requirements for future development but shall not bind a future developer to the specific layout presented.

(6) As part of the application for any short plat, the applicant shall provide a Wetlands and Fish & Wildlife Assessment, pursuant to SCC 14.24.200 and SCC 14.24.500.

(7) Notes must be placed on the short plat that would allow future lots that may be platted on Lot 1 to access the 60 foot easement on the north side of Lot 2.

(8) The applicant must enter into a no protest agreement to facilitate future annexation of the property into the Mount Vernon city limits.

9. Any findings herein which may be deemed a conclusion is hereby adopted as such.

### DECISION

The requested lot size variance is granted, subject to the conditions set forth in Conclusion 8 above.

  
Wick Dufford, Hearing Examiner

Date of Action: April 18, 2001

Copies Transmitted to Applicant: April 18, 2001

### RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 dates after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.