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, Skagit County Auditor

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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 01 0458

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: ROBERT AUS

ASSESSOR PARCEL NO: P27644

ABBREVIATED LEGAL DESCRIPTION: Located at 15490 State Route 9, Mount Vernon, WA; a portion of Section 23, 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
ROBERT AUS

VA01-0458

For a Variance from the Maximum
Lot Size Requirements Within the
Urban Growth Area of the City of
Mount Vernon

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

THIS MATTER, a request for variance, came on regularly for hearing on October 10, 2001, after due notice. Brandon Black appeared for the Planning and Permit Center. Gloria Rivera spoke for the City of Mount Vernon. Young-Soo Kim, Summit Engineers, represented the applicant. Members of the public were given an opportunity to be heard.

Based on the testimony taken, the exhibits admitted and the argument made, the following is entered:

FINDINGS OF FACT

1. Robert Aus (applicant) seeks a variance from the maximum lot size requirements for property within the Urban Growth Area of the City of Mount Vernon. The request is made in order to permit a short plat that creates two oversize lots.
2. The address is 15490 State Route 9, located just south of the junction of SR 9 and the Mount Vernon-Big Lake Road, within a portion of Sec. 23, T34N, R4E, WM.
3. Development of land in Skagit County that is located within an Urban Growth Area is governed by the County-adopted provisions of the applicable City code.
4. The Mount Vernon Comprehensive Plan designation for the area in question is SF-MED (Medium Density-Single Family), implemented by City code provisions establishing two zoning designations, allowing for densities of 3 and 4.5 dwelling units per acre. The minimum lot sizes in these zones are 13,500 square feet and 9,600 square feet.
5. Ordinance #16559 established the density in an Urban Growth Area of four or more dwelling units per acre.
6. The subject property is 9.53 acres in size. The applicant seeks to create one lot of 0.51 acres and another of 9.02 acres. The smaller of these, in the northeast corner of the property, contains an existing residence accessed from SR 9. The larger lot will be used as the site for a future home for the applicant.



7. The City approves of this variance if certain conditions are imposed.

8. The City asks that the applicant provide a shadow plat that illustrates how in the future the property will meet a required density of four units per acre. This shadow plat is to take into account future access needs, the provision of necessary utilities, and any critical areas associated with the area.

9. The current residence is served by an individual domestic well and an on-site septic system. At present, the nearest urban utilities for the subject property are at least 1/3 mile distant. There are no plans to subdivide further until urban utilities become available. The City requests a plat note that indicates that the future divisions must accommodate City utilities, infrastructure and urban services.

10. Following the proposed short plat, it will be possible for further subdivision of this land to occur. The City requests a note on the face of the short plat to the effect that future development shall achieve the density illustrated by the shadow plat. This density could be subject to future change following jurisdictional review, but should be recorded with the plat to put owners on notice of potential building site restrictions.

11. The large lots created by the proposed short plat will be compatible with the surrounding neighborhood which presently consists primarily of larger single-family lots.

12. Access for the larger of the two lots in the short plat will need to be identified on the short plat and approved by the Washington State Department of Transportation.

13. The Mount Vernon Municipal Code sets for the criteria for variances at MVMC 17.105.060, 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) That 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 the granting of such variance shall 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. The Staff Report analyzes the application against the above criteria and determines that, as conditioned, it is consistent with them. The Examiner concurs in this



analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

15. Granting the proposal will allow the applicant to use his property compatibly with the existing large lot development in the neighborhood before urban services are available. When such services become available, the property retains the potential to develop at the density contemplated in the Comprehensive Plan.

16. There was no correspondence and no testimony from the public about this proposal.

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 persons and the subject matter of this proceeding. SCC 14.10.020(3).

2. The variance request is exempt from the procedural requirements of the State Environmental Policy Act. WAC 197-11-800(6).

3. SCC 14.02.040 requires that in Urban Growth Areas, created pursuant to the Growth Management Act, the provisions of the applicable City code shall be applied when adopted by County ordinance. Appendix A thereto lists Title 17 (Zoning) of the Mount Vernon Municipal Code as among those City code provisions so adopted.

4. The above findings support a conclusion that the requested variance from the standard requirements is consistent with the variance criteria of MVMC 17.105.060, if the following conditions are imposed:

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

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

(c) The applicant shall provide a shadow plat on the face of the plat map for the two lots. The shadow plat shall illustrate future compliance with the lot size and density requirements set forth in the Mount Vernon Comprehensive Plan and development regulations. If such future compliance cannot be achieved, specific reasons why must be set forth.

(d) The applicant shall provide a note on the face of the plat to put owners on notice of the building site restrictions illustrated by the shadow plat.

The note may indicate that such lot size and density may be subject to future change following jurisdictional review.

(e) The applicant shall provide a note on the face of the plat identifying urban utilities and infrastructure and stating that such facilities must be made available for build-out of the property beyond that contemplated by the short plat.

(f) Prior to approval of any short plat, the following must occur.

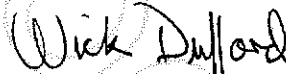
- (1) A Wetland and Fish and Wildlife Assessment shall be submitted as required by Chapter 14.24 SCC.
- (2) A soil evaluation shall be submitted for proposed Lot 2.
- (3) The applicant must demonstrate the ability to meet the access requirements of the Mount Vernon Fire Department as outlined in the Fire Chief's letter of July 13, 2001.

5. Prior to obtaining a building permit, the applicant shall provide proof of availability of adequate potable water.

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

DECISION

The requested variance from the maximum lot size limitations of the Mount Vernon Municipal Code is hereby approved, subject to the conditions set forth in conclusion 4 above.



Wick Dufford, Hearing Examiner

Date of Action: November 13, 2001

Copy Transmitted to Applicant: November 13, 2001

Attachment: Staff Report

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 days 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.



SKAGIT COUNTY PLANNING AND PERMIT CENTER
FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: OCTOBER 10, 2001

APPLICATION NUMBER: VARIANCE PL#01-0458

APPLICANT: ROBERT AUS

ADDRESS: 15490 STATE ROUTE 9
Mount Vernon, Wa 98274

PROJECT LOCATION: Located at 15490 State Route 9, Mount Vernon, WA; within a portion of Section 23, Township 34 North, Range 04 East, W.M., Skagit County, Wa.

PROJECT DESCRIPTION: Variance Request #PL01-0458 to allow for the creation of a lot exceeding the maximum lot size requirement located within the Urban Growth Area for the City of Mount Vernon

ASSESSOR'S ACCOUNT NUMBER: 340423-0-039-0004,
PARCEL ID NUMBER: P 27644

ZONING: R-1 13.5 & 9.6

COMPREHENSIVE PLAN: Residential within the City of Mount Vernon Urban Growth Area.

EXHIBITS:

- a. Application dated June 28, 2001
- b. Site Plan
- c. Assessor map
- d. Letter of Completeness dated July 10, 2001
- e. Notice of Development dated July 12, 2001
- f. Letter from Gloria Rivera, City of Mount Vernon dated July 19, 2001.
- g. Memo from Ervin Lindall to Gloria Rivera, City of Mount Vernon dated July 13, 2001.



STAFF FINDINGS:

1. The subject property is zoned R-1 13.5 & 9.6 and Comprehensive Plan designates the area as Urban Growth for the City of Mount Vernon.
2. A letter of completeness was issued on July 10, 2001. A Notice of Development Application was posted on the subject property, published in a newspaper of general circulation and mailed to property owners within 300 feet of the subject property on July 12, 2001 as required by Skagit County Code Section 14.06.150(2). The public hearing has been advertised in accordance with the requirements of Skagit County Code Chapter 14.06.150(3).
3. The application has been reviewed in accordance with the State Environmental Act Guidelines WAC 197-11-800 (6)(b) and has been found to be exempt.
4. The subject property is not located within a designated Flood Hazard Zone per FEMA.
5. The subject parcel was reviewed with the respect to the Skagit County Critical Areas Ordinance. Critical areas staff indicated that if the variance is approved, a combined wetlands and Fish & Wildlife site assessment will be required with the plat review per Skagit County Code 14.24.220 and 520 respectively. All critical areas and buffers shall be placed into a Protective Critical Areas Easement (PCA) per SCC 14.24.170 and recorded on the final plat map.
6. The application was routed to the City of Mount Vernon on July 3, 2001 for review under the city development standards and the city variance criteria.
7. The subject property is approximately 9.53 acres in size located east of the city limits of Mount Vernon, west of Highway 9, and south of Mount Vernon Big Lake Road within the Mount Vernon Urban Growth Area. The subject parcel measures approximately 988 feet in length along the south property line, approximately 634 feet in length along the north property line, approximately 511 feet in width along the west property line, and approximately 621 feet in width along the east property line. There is an existing residence located along the northeast portion of the parcel adjacent to Highway 9 and the access to the residence is off of Highway 9. The parcel is currently serviced water by an individual drilled well and utilized and on-site septic system.



8. The Comprehensive Plan adopted in June 1997 and Interim Ordinance #16559 established the maximum lot size in an Urban Growth Area as 4 or more residential dwelling units per 1 acre.
9. The applicant is requesting a variance for a short plat that creates two lots larger than the minimum specified in the Mount Vernon Comprehensive Plan or City Code that would not currently meet the density requirements. The Comprehensive Plan for the City Mount Vernon designates this area in the unincorporated Urban Growth Area as SF-MED (Single-Family Medium Density). The applicable Mount Vernon City Code implementing the Comprehensive Plan has two zoning designations for SF-MED, allowing for densities of 3 to 4.5 dwelling units per acre. As established in Section 15.15.020 of the Mount Vernon Municipal Code, minimum lot sizes are set at 13,500 square feet or 9600 square feet
10. The applicant would like to divide his property into two lots. One lot would be approximately .51 acres in size and contain the existing residence and other buildings. The second lot would be the remaining 9.02 acres to be developed at a future date. The proposed .51-acre parcel would be located in the northeast corner of the property and would measure approximately 150 feet along the south property line, approximately 112 feet in length along the north property line, approximately 120 feet in width along the east property line, and approximately 201 feet in width along the west property line.
11. The application was routed to the appropriate county departments and the City of Mount Vernon for review. **Public Works**—no concerns, **Septic Division** indicated that no septic application or site evaluation had been turned in at this time. **Water Resources** indicated that the proposed lot size would not be adequate to meet Skagit County Code section 12.05.210 and Chapter 246-272-20501 WAC, the minimum lot size allowed under these regulations where on-site sewage and individual wells are proposed is one (1) acre in size. **City of Mount Vernon**—letters from City dated July 19, 2001 and September 21, 2001.
12. Skagit County Code 14.02.040 states that for all land in unincorporated Growth Management Act (GMA) designated urban growth areas, the provisions of the applicable city code, when adopted by Skagit County ordinance shall be applied.
13. Section 17.105.060 Variances of the Mount Vernon Municipal Code states that certain items will be reviewed when approving or denying Variances. Those items are as follows:



Criteria 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.

Staff response: The City's Comprehensive Plan Map designates this property SF-MED with lot sizes from 13,500 square feet to 9,600 square that accommodates densities of 3 to 4.5 units per acre. As proposed the creation of the larger lots is not compatible with the Comprehensive Plan or Development Codes. The large lots would presently, continue to be compatible with the surrounding neighborhood consisting of mostly larger single-family lots. To insure that density requirements are met, the City requests that a note be placed on the face of the plat indicating that future development potential shall achieve a density of four units per acre. The plat note could be subject to future change following jurisdictional review to maintain flexibility for development but must be recorded with the plat to put owners on notice of possible building site restrictions. The plat note must indicate that future divisions of this parcel shall accommodate City utilities, infrastructure, and other urban services. With a plat note provided, the variance allows large lot development but still enables conformance with the City's Code and Comprehensive Plan for future development. Therefore the variance would not constitute a grant of special privilege with the limitation on other properties now and in the future and Criteria 1 would be satisfied.

Criteria 2. That 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.

Staff response: A limiting factor for smaller lot development as required in the Mount Vernon Comprehensive Plan and Development Regulations would be the current unavailability of sanitary sewer to this area. This lack of urban services could justify the variance for the large lot development. However, since full urban services and infrastructure will be available in the future, the lots configurations (in this case through a plat note) must show that urban density can be achieved at a later date. Through the placement of a note on the plat indicating restricted future development, the jurisdictions will allow the applicant to short plat the parcel with larger lots while assuring future urban densities. Finally, larger lot platting continues to be consistent for with surrounding residential development.



Criteria 3. That the 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.

Staff response: The surrounding neighborhood would not be negatively impacted by the proposed use since it continues a pattern of larger residential lots. With the platting of two lots no immediate impacts are perceived. Traffic generation from the proposed use will not currently trigger any transportation improvements. Lot #1 serving the existing residence can be accessed from the existing driveway off of Highway 9. Access to Lot #2 and any future buildout development on Lot #2 can be accessed off of Highway 9 through a access location that will need to be identified with the short plat and approved by Washington State Department of Transportation (WSDOT). At the present time no material detrimental effects on neighboring properties should occur due to excess noise, lighting, or other interference if a single residence is located on each parcel. However, as future buildout in compliance with the City Comprehensive Plan and Development Codes occurs, neighboring properties will be subject to increased noise, lighting and residential interference. Therefore, the granting of the variance would not be detrimental to the public welfare or injurious to property or improvements in the vicinity or the zone and Criteria 3 is satisfied.

RECOMMENDATION:

Based on the above findings the Skagit County Planning and Permit Center and the City of Mount Vernon would recommend **approval** of the requested variance with the following conditions:

1. Prior to the conveyance of any parcel, a short subdivision application will need to be submitted and approved.
2. The Variance number and date of approval shall appear on the face of any subsequent short plat.
3. The applicant shall provide a note on the face of the plat map for both lots that illustrates future compliance with the lot size and density requirements of four units per acre of the Mount Vernon Comprehensive Plan and Development regulations. The plat note (exact verbiage to be worked out prior to plat approval) could be subject to future change following jurisdictional review to maintain flexibility for development but must be recorded with the plat to put owners on notice of possible building site restrictions. The plat note must identify and accommodate full City utilities and infrastructure for the property buildout. If a lot cannot be platted into future lots specific reasons must be set forth.



4. With the land division a Wetlands and Fish & Wildlife Assessment will be required under Skagit County Code 14.24.200 & Skagit County Code 14.24.500.
5. With the land division a soil evaluation shall be submitted for proposed Lot 2.
6. The fire flow and access requirements of the City of Mount Vernon Fire Department outlined in the attached letter dated July 13, 2001 from Ervin Lindall must be met.

Prepared by: BB

Approved by:

Dated 10-3-01



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Skagit County Auditor

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