

## **SUPPLEMENTAL APPLICATION**

### **Project: Manitou Reasonable Use Exception and Variance (PLM51687 RUE/BAR)**

Project Location: Manitou Beach Drive NE, Bainbridge Island, WA 98110

1. How the request to reduce the front setback from twenty-five feet (25') to ten feet (10') meets the decision criteria in BIMC 2.16.060.D.?

(a) A variance to the front yard setback is requested so that the single-family residence can be constructed as far away from the critical area as possible. Without this variance, the residence would need to be constructed closer to the wetland and within the wetland buffer. There will be more disturbance of the critical areas if the variance is not granted. In fact, the granting of the variance will be beneficial to the public welfare and will cause less injury to the property.

(b) The variance is requested because of the special circumstances related to the size, shape, topography, trees, ground cover location, and surroundings of the subject property.

This project is proceeding under an application for a reasonable use exception under the City of Bainbridge Island Critical Area Ordinance. The property contained wetlands and a wetland buffer. The goal is to reduce the disturbance of the critical areas as much as possible. This variance is required because of the special circumstances of this particular parcel of property.

(c) The need for this variance has not arisen from previous actions taken or proposed by the applicant. This property is undeveloped and is currently in its natural state.

(d) This variance is necessary for the preservation and enjoyment of a substantial property right. The reasonable use exception under the critical area ordinance recognizes the right of the property owner to make reasonable use of the property impacted by the critical area. Denial of this variance will result in more significant negative impact to the critical area and will not constitute a granted special privilege inconsistent with limitations upon uses of other property in the vicinity in which the property is located. The existing homes adjacent to this property were constructed before passage of the critical area ordinance, pre City of Bainbridge Island and development occurred without regard to the critical areas.

(e) This variance is consistent with other provisions of this Code and is in accordance with the comprehensive plan. Granting of this variance will be beneficial to the adjacent wetland and wetland buffer and will be consistent with the goals of the comprehensive plan to limit impacts of development adjacent to critical areas.

2. A complete and detailed written statement of how the proposal meets the decision criteria in BIMC 16.20.080.

(a) The reasonable use review criteria are found in Section 16.20.080 of the Bainbridge Island Municipal Code. Each of these criteria will be addressed as follows:

(i) The application of this chapter would deny all reasonable use of this property. The least intensive use of this property is construction of a single-family residence. This property contains wetlands and wetland buffers under the critical areas ordinance that do not allow for any development activity. Without a reasonable use exception, all reasonable use of this property would be denied under the critical area ordinance.

(ii) There is no reasonable alternative to the proposal with less impact to the critical area or its required buffer. The wetland and buffer cover nearly all of the subject property making it impossible to build a single-family residence on the property without approval of a reasonable use exception.

(iii) There is no reasonable alternative to the proposal with less impact to the critical area or its required buffer.

The ordinances governing reasonable use exceptions state that the proposed total lot coverage must not exceed 1,200 square feet for residential development. The City of Bainbridge Island's interpretation of this language is that a structure with a 1,200 square foot footprint is the minimum allowed for a reasonable use exception as well as the maximum allowed. The City's interpretation that allows for a maximum of a 1,200 square foot building footprint has been applied to previous applications, which have been approved by the Hearing Examiner.

3. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing (BIMC 16.20.030). The site plan submitted by the applicant places the residence as close as possible to the access road to minimize adverse impacts to the buffer and wetland area. The wetland report submitted by the applicant includes mitigation measures that are incorporated by reference into this statement.

4. The proposed impact to the critical area is the minimum necessary to allow reasonable use of the property. The proposal for a residence with a 1,200 square foot footprint is the minimum necessary to make reasonable use of the property for this application.

5. The inability of the applicant to derive reasonable use of the property is not the result of the actions by the applicant or the applicant's predecessor. The applicant and her predecessors took no action after 1992 that would cause the property to become almost completely covered with wetlands and buffer areas.

6. The proposed total lot coverage does not exceed 1,200 square feet for residential development. The proposed site plan depicts a residence with a footprint of less than 1,200 square feet. The driveways, walkways, and porches do not cause further encroachment into the wetland and wetland buffer than the building footprint itself. Therefore, the total footprint of the residential structure is less than the minimum allowed in the critical area.

7. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the property, as with other similar proposals cited by this Hearing Examiner, there is no evidence in the record that there is an unreasonable threat to public health, safety, or welfare if this proposal is approved.

8. Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements applicable to the critical area altered. The applicant's wetland delineation report and buffer mitigation plan, which is incorporated by reference, will impact 4,477 square feet of wetland buffer to build the house, driveway, and septic tank and drain field. Options for offsite mitigation are not available on Bainbridge Island at this time, so mitigation is proposed onsite by the following improvements to the wetland buffer:

(a) All invasive species will be removed, and native species will be planted within the forested buffer. Removal of these invasive species will allow the existing native plants to proliferate. The proposed plantings will also enhance the buffer by adding plants of varying heights. At the end of the monitoring period, the buffer will be denser which will provide increased function to block light and noise from residential activity. The buffer will have more species diversity which will attract wildlife and the native plants will slow and filter runoff from impervious surfaces.

(b) More direct wetland impacts are proposed for this project, therefore, mitigation of direct impacts to the wetland are not required. Much of the understory is dominated by ivy. Replacing the invasive species with native trees, shrubs, and ferns will improve overall habitat function in the buffer. The likelihood of the ability of the enhanced buffer to provide improved buffer function is high when compared to the condition of the existing buffer which is dominated by evasive ivy. Conditions of approval will include a monitoring plan with performance standards and follow-up maintenance.

(c) Maintenance of the mitigation area will occur for five (5) years and will involve removing invasive plant species, irrigating planted species and reinstalling failed plantings as necessary.

(d) The proposal protects the critical area of function and values consistent with the best available science and results in known critical area function and values. The applicant has submitted a wetland delineation report and mitigation plan by Ecological Land Services dated May 13, 2020. Pursuant to that report, this proposal protects the critical area's functions and values consistent with best available science and results in no loss of critical area functions and values.

9. This proposal addresses cumulative impacts of the action. The City has historically insisted upon strict compliance with the criteria for reasonable use exception which proposed reasonable use exception includes mitigation, which will enhance the wetland buffer and therefore create an environmental benefit. The city requires strict compliance with the criteria for reasonable use exceptions therefore impacts of several reasonable use exceptions should not have significant negative cumulative impact.

10. The proposal is consistent with other applicable regulations and standards. This proposal as presented is consistent with other applicable standards and regulations. A building permit is required before construction of the proposed house can begin and condition of approval will require compliance with applicable regulations and standards including best available science.

11. It is requested that the project description on the master land use application form that was submitted be revised to add a variance in the front yard setback to ten feet (10').

12. A survey in accordance with BIMC 16.20.140.B.3 shows the surveyed wetlands sized and mapped on a scale of the site plan. The wetland boundary has also been marked in the field and surveyed by a licensed surveyor. The mitigation plan is also depicted on the site plan that depicts the surveyed wetland boundaries.

13. A complete site plan including contours, setback, areas of disturbance, utilities, and significant trees is depicted.

14. Considerations for revisions to the wetland mitigation plan:

(a) The site plan correctly depicts a ten-foot (10') setback from the front property line. The variance requested is from twenty-five feet (25') to ten feet (10') and not to five feet (5'). A ten-foot (10') setback is required to allow sufficient area for parking and turn around for the occupants of the residence.

(b) Mitigation sequencing steps. The applicant proposes that the construction activity take place during the dry period of the year (August/September). Planting would be sequenced after the wet season and all earth work has been done to observe the hydro period before planting. The duration and extent of ponding and saturation would be monitored to identify problems with the water regime that can be corrected before planting. This would also allow the planting zones to be based on actual water levels rather than levels hypothesized in the plan. In the interim, a seed mix would be planted to prevent erosion and limit the spread of invasive species.

In addition, the reserve drain field can be left in its existing more nature state. The septic tanks can be moved closer to the development area if the variance to the front yard setback is granted. Health Department requirements for setbacks from the residence and the driveway easement will not allow for the septic tanks to be moved any closer, unless the variance to the front yard setback is granted.

The development area has been shifted as close to the southwest corner as possible, assuming the variance to the setbacks is granted. The project cannot be clustered in a smaller area.

A low impact foundation design was considered by the geotechnical study submitted and on file by hydrogeologist Robert Cousins. A low impact development foundation was considered and found not feasible. The current design has been modified to allow for parking underneath the residence, which should allow for a reduction in impervious surface.

Dated this 17 day of July 2020.

APPLICANT:

  
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William H. Broughton

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