

**Bauman Residence  
5928 77<sup>th</sup> Ave SE****Reasonable Use Exception****Project Narrative**

The proposed Bauman residence under consideration for a Reasonable Use Exception is a single-family residence with an attached 3-car garage. The 15,150 square foot site is very unusual in being 90% covered by critical areas and the building area is covered 100%. Another unusual factor in requesting the exception is the atypically small existing home that was built in 1953 as a cabin for the local Boy Scouts leader. The home is only 1,780sf with no garage. The structure does not comply with the current zoning code, structural code, seismic code or energy code. The proposal is seeking to demolish the existing cabin.

The site is moderately sloped and is composed of generally competent soils. The site is burdened with three critical areas, a wetlands setback and buffer from an off-site wetlands area, a watercourse buffer and setback from an off-site open watercourse, and a storm drain/piped watercourse and attendant setback that bisects the property in the east-west direction. Further constraints upon the property are generated by an access easement and buffer that bisects the property in the north-south direction and a building pad restriction that increases the rear yard setback from 25 feet to 42 feet.

The requested relief from the critical areas are as follows:

1. Demolition of the existing home and construction of a new home
2. Placement of the home and garage in the watercourse setback – the proposed location increases the distance from the watercourse in comparison to the existing structure.
3. Placement of the garage in the wetlands setback area – the proposed location increases the distance from the setback and covers less area in the setback buffer in comparison to the existing structure.
4. Placement of the home and garage within the storm drain/piped watercourse setback
5. A setback deviation of 10 feet from the front property line to reduce the intrusion into the critical area setbacks.

**Response to Chapter 19.07.140(A)(1) Reasonable Use Exception:****1) *The application of this chapter would deny all reasonable use of the property.***

The sole allowance for an existing structure improvement located within a Critical Area is an addition of 200 sf. Also, the addition may not increase impact within the critical areas. The following analysis will show that a remodel and addition of the existing structure is not economically feasible for this site and because the watercourse covers the entire buildable area of the site there is no additional area that will not increase impact on the watercourse setback:

- a. The existing home is significantly smaller than the surrounding homes, a reasonable use would be to meet at least the average of the surrounding homes. The neighboring homes are 2 to 3 times larger than the existing home and all have garages. The eight surrounding

homes have an average of 3,975 SF finished area (see enclosed Appendix A). Even with an allowed 200 SF addition the existing home is 1,995 SF (50%) smaller than the average home. The proposed Bauman home is 3,753 SF finished area – over 200 square feet smaller than the neighborhood average. Being constrained to the existing size of a home 50% smaller than the average with no garage structure would seriously devalue the property. The property was purchased for \$2,575,000 in 2023. King County values the improvements on the property at \$298,000 which clearly indicates the great majority of the value is in the land and location.

- b. The home is substandard in respect to the current zoning code, structural code, seismic code and energy code. Remodeling the current home is not economically feasible because of its small size and cost to bring it up to current code. This would cost more than new a comparative new construction project to upgrade the foundation, framing, hvac systems, windows and roof. Even if increased by the allowed 200 square feet the house would not be worth the amount of time and money invested in it. Once the home is improved the land would lose considerable value as it would not have the potential of further development to bring it up to even an average home size of the neighborhood. The owners would be burdened with a devalued investment with no hope of recovering even their original investment not including the considerable cost of the new construction.
- c. If constrained to the size of the original small home the tax burden is disproportionately high compared to other homes on Mercer Island. A remodel and small addition to the existing structure would bear essentially the same tax burden as homes 2-3 times the size.
- d. In the face of the economic realities, the property owner has only three options if denied the Reasonable Use Exception.
  - i. The first is to remodel the current home which will take about \$1,000,000 to \$800,000 and then suffer the economic loss of not only the cost of improvement but also a massive devaluation of the land. There does not exist a buyer that will pay \$3,757,000 for a 1,980 sf home with no garage on the west side of Mercer Island. This is an unreasonable economic option and would not be pursued by the owner.
  - ii. The second choice is to sell the property at a loss. The property will be worth far less if no reasonable development can occur on the site. The RUE application will be part of the public record so buyers will be aware that the home size is constrained and far below what is offered on similar properties on the island and no garage will be allowed. Again, this is unreasonable and would not be pursued by the owner.
  - iii. The third choice, which is the most economically viable is to let the property go vacant and withhold maintenance until it becomes derelict and can be condemned by the city. At this time another attempt at the Reasonable Use Exception can be made without the burden of the substandard existing structure. However, this would also entail a considerable economic hardship of carrying a \$2,575,000 investment with no ability to make use of it for one to two years. An unmaintained home would also be a burden on the neighboring property owners.
- e. The watercourse setback and buffer covers 90% of the site and 100% of the buildable area. There is no location on the site for an additional 200 square feet that has no further

expansion into the watercourse area. The proposed development does improve upon the distance from the watercourse and wetland features. Additionally, there is no way to satisfy 19.07.130 A,2.c as the 75 percent setback distance covers 100% of the buildable area.

- f. The following options provided in the code are not sufficient to develop the property:

**MICC 19.07.180 (C)(4)Watercourse buffer averaging – Response:**

Watercourse buffer averaging will not work on the site:

- a. The proposed home is placed at the greatest distance possible from the closest point of the watercourse. This termination of the watercourse is offsite and is located where the watercourse enters a culvert that leads to an underground concrete storm drain. The proposed home is placed further away from the watercourse than the existing home which is an improvement.
- b. A large mitigation area is proposed to offset the increase in lot coverage. The proposed development lot coverage is 1,393 square feet more than the existing. The standard mitigation area is 100% of the increased square footage. The new proposal will include 2,937 square feet of mitigation area which is over 200% of the increased square footage. The mitigation area will include a restoration planting of NW native species. Within the mitigation area non-natives will be removed and new plantings of NW native woody vegetation will be installed. A certified biologist will provide the mitigation plan. All mitigation codes will be adhered to and the monitoring procedures will be followed. The mitigation area is carefully configured to create a minimum 10 foot buffer from the property lines adjacent to the wetland and watercourse. The mitigation area will also cover the steep slope area on the property. Please refer to Sheet A1.0 Site Plan
- c. The watercourse setback and buffer cover completely the buildable area of the site. There is no development that can meet the standard of maintaining a 75% minimum of buffer width.
- d. The watercourse setback and buffer cover completely the buildable area of the site. There is no development that can meet the standard of keeping the total area of the buffer equal to the area required without averaging.

**MICC 19.07.130 Modifications to legally established structures – Response:**

1. The seasonal limitations on site work shall be applied if the RUE is granted
2. Additions:
  - a. The allowed 200 square feet is an inadequate increase as the existing home is a substandard 1,750 SF in relation to the neighborhood and Mercer Island in general. Additionally, the home has no garage. Please see item 1) above for the complete demonstration.
  - b. The complete buildable area of the site is covered by a watercourse setback and buffer. The setback distances from the watercourse will be improved. The footprint area of the existing home is only 1,293SF which is inadequate to even provide an average size home on the site.
  - c. The watercourse setback and buffer cover completely the buildable area of the site. There is no development that can meet the standard of maintaining a 75% minimum of buffer width. The proposed structure will be further away from the watercourse than the existing structure.
  - d. A critical area study – is not deemed necessary at this time by the city

**MICC 19.07.110(C) Setback Deviations for protection of critical areas – Response:**

The setback deviation provides a lessening of impact of critical areas and is requested for that reason. By itself the setback deviation cannot provide relief from the restricted development required by the watercourse setback that covers the entire buildable area of the site.

- a. No use deviation is requested
- b. The deviation will allow for a single family home which will have no detrimental effect on the public or the improvements within the vicinity and zone. The resulting development will be a modest single family zone within a neighborhood of like structures. The requested front yard setback occurs on a city right-of-way that serves no other homes and is not fronted by any other homes. The requested 10 foot front yard setback is an improvement over the existing home which is setback five feet from the front property line. Please refer to Appendix B – View Down City Right of Way
- c. The deviation requested is an improvement over the existing home location and is largely hidden from view from the surrounding neighbors.
- d. The deviation is consistent in creating an improvement in the setback distance from the existing structures.
- e. The basis for the request is solely the steadily increasing setback and buffer widths over the past 30 years. The setbacks have grown to engulf almost the entire property.
- f. The requested deviation is for a single family development which is almost entirely covered by a watercourse setback and buffer area.
- g. The resulting building pad will result in increased distance from the watercourse and the wetlands which results in less impact.
- h. The only request is for the front yard setback to be 10 feet.

**2) *There is no other reasonable use with less impact on the critical area.***

The current zoning allows only residential use. A modest residential design is the best use of the site with the least impact on the critical areas. The proposed design has been optimized to reduce the footprint as much as possible and to increase the distance from the critical areas.

**3) *Any alteration to critical areas and associated buffers is the minimum necessary to allow for reasonable use of the property.***

Great care has been taken to minimize the impact of the development on the critical areas. The main design features that minimize the impact are:

- a) The size of the home is minimized.
  - i. The neighboring homes are 2 to 3 times larger than the existing home and all have garages. The eight surrounding homes have an average of 3,975 SF finished area. The proposed Bauman home is 3,753 SF finished area – over 200 square feet smaller than the neighborhood average.
- b) The proposed design is not full redevelopment. The proposed home is much smaller than allowed by the zoning regulations.
  - i. The gross floor area is 70% of the allowable

- ii. The hardscape is 36% of the allowable
  - iii. The landscaping area is increased to 121% of the required.
  - iv. The proposed lot coverage is 67% of the allowable.
- c) The proposed home is placed in the southwest corner of the property creating the greatest distance from the home to the critical areas. Additionally, the RUE application requests a 10 foot reduction in the front yard setback. This reduction will place the home even further away from the source points of the critical area setbacks.
  - d) The proposed home is configured as a 3-story structure to minimize the building footprint and minimize the impact on the critical areas.
  - e) A large mitigation area is proposed to offset the increase in lot coverage. The proposed development lot coverage is 1,393 square feet more than the existing. The standard mitigation area is 100% of the increased square footage. The new proposal will include 2,937 square feet of mitigation area which is over 200% of the increased square footage. The mitigation area will include a restoration planting of NW native species. Withing the mitigation area non-natives will be removed and new planting of NW native woody vegetation will be installed. A certified biologist will provide the mitigation plan and will follow all the codes and the monitoring procedures will be adhered to. The mitigation area is carefully configured to create a minimum 10 foot buffer from the property lines adjacent to the wetland and watercourse. The mitigation area will also cover the steep slope area on the property. Please refer to Sheet A1.0 Site Plan.

**4) *The proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site***

The proposed design only provides a higher standard of safety for the health, safety and welfare of the public. The proposed design will be built to the latest codes for structural stability and energy efficiency. The location of the proposed home also will comply with current zoning regulations which will benefit the neighbors. The current oil heating system and oil tank will be removed from the site and any leakage on site will be cleaned up per the current codes. Removing the current oil heater will only improve the environmental health for the surrounding neighbors. The proposed construction will have no impact on the offsite wetlands, the offsite stream course or the concrete storm drain located below grade on the property. Updating and cleaning the sanitary sewer connection will also provide improvement to the environmental health of the neighborhood.

**5) *The proposal is consistent with the purpose of this chapter and the public interest***

The proposed design enhances the environment, neighborhood and health and safety of the public:

- a) Conforms to the single family zone setbacks and density. The current design is built into both side yard and front yard setbacks. The proposed design will improve upon the existing condition and conform to the zoning code.

- b) Improves the critical area setbacks from the watercourse and wetland
- c) Provides an offset of 200% of the increased lot coverage for mitigation measures to improve biodiversity and the ecological health of the watercourse and wetland.
- d) Improves the safety of the site by providing a code compliant structural foundation and fire suppression system.
- e) Minimizes impacts to critical areas by providing improved setbacks and locating the mitigation areas to create a buffer between the development and the watercourse and wetlands.

**6) *The inability of the applicant to derive reasonable use of the property is not the result of actions by the current or prior property owner***

Inability of the applicant to derive reasonable use from the property is solely based upon the increasing width of critical area setbacks and buffers over the past 25 years. In the year 2000 the entire proposed development would have been outside of the watercourse and wetland setbacks.

## Appendix A

### Bauman - Neighboring Homes Square Footage

Address	SF finished area
7900 Northbrook	3,600
7901 Northbrook	4,200
5919 77th	2,880
5911 77th	5,400
5927 77th	4,710
6015 77th	3,250
6012 77th	3,770
6088 77th	3,990
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	<b>3,975</b> average sf

Bauman Proposed Home **3,753** sf  
**222** sf below average  
**94%** of average

Bauman Existing Home **1,780**  
**2,195** sf below average  
**45%** of average



APPENDIX B

VIEW DOWN CITY RIGHT OF WAY.  
EXISTING HOME IS ON LEFT HAND SIDE