

Bauman – RUE
Responses to Fisheries and Wildlife

Lack of Demonstrated Reasonable Use Necessity

The sole allowance for an existing structure improvement located within a Critical Area is an addition of 200 sf. The following analysis will show that a remodel and addition of the existing structure is not economically feasible for this site.

- 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 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 potential burden on the neighboring property owners.

Reasonable use does not include full redevelopment

1. The proposed design is not full redevelopment – this is not supported by the facts. The proposed home is much smaller than allowed by the zoning regulations.
 - a. The gross floor area is 70% of the allowable
 - b. The hardscape is 36% of the allowable
 - c. The landscaping area is increased to 121% of the required.
2. The home maximizes the height of the structure to conserve as much of the property as possible. The home is built vertically instead of horizontally to conserve lot coverage.
3. Every effort has been made to keep the home as far away from the critical areas as possible

Non-compliance with construction standards

1. An addition or reconstruction is not economically feasible – see above discussion
2. The whole site is covered by ECA zones. There is no placement of any building element that does not increase encroachment. The proposed new structure increases the distance from the critical areas.
3. 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 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.

No evidence of efforts to minimize impacts

1. The proposed design is much smaller than allowed by the zoning regulations.
 - a. The gross floor area is 76% of the allowable
 - b. The hardscape is 56% of the allowable
 - c. The landscaping area is increased to 113% of the allowable.
2. The home maximizes the height of the structure to conserve as much of the property as possible. The home is built vertically instead of horizontally to minimize lot coverage.
3. The potential build area is pinched between an access drive setback on the west side and the stream buffer on the east side. The RUE includes a request to reduce the front

- yard setback from 20 feet to 10 feet. This significantly increases the distance from the critical areas.
4. Alternatives have been explored and the proposed design has resulted in a home that is below average in size for the community and has reduced impacts on critical areas. The distance from critical areas has been increased and a buffer area of mitigation has been provided to further protect the critical areas.

Environmental Issues if approved

1. The proposed home will be further away from the critical areas than the existing structure. The modest increase in lot coverage will be offset by an over 200% sized mitigation zone of NW native plant species that will increase the quality of the buffer from the critical areas along the shared property line. There is no impact on the piped watercourse which is 8 feet below grade and completely enclosed and impervious to any drainage issue from the proposed development.
2. The driveway mentioned is incorrectly noted – this is a city street. The owners have no jurisdiction over how this street is treated. The stormwater generated from the proposed home will be treated and discharged per the regulations of the City of Mercer Island. These measures are put in place to minimize impacts and protect existing areas.

Case law does not support overdevelopment

1. The facts prove that the proposed home is underdeveloped per the City of Mercer Island's zoning code.
2. The proposed design does not have "luxury" features. It can be easily proved that multi-story homes and garages are basic features of the vast majority of homes. Additionally, the multi-story feature of the home is employed to minimize the footprint of the home so that our proposal utilizes only 36% of allowable hardscape.

Lack of demonstrated Hardship

1. The existing home is entirely unsuitable as a residence meant to be an age-in-place home for the remainder of the owner's lives. The existing home cannot be remodeled or upgraded to accommodate the necessary features to support the goals of the owners. The existing home is:
 - a. Structurally unstable according to current code
 - b. Completely substandard in energy performance
 - c. Not suitable for basic and essential accessibility
 - d. Lack of a garage affects accessibility and safety
 - e. Economically unfeasible
2. There is no preference for "luxury", only a desire for a structurally sound, energy efficient home that also offers safe accessibility for aging in place.

Regan McClellan AIA
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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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	3,975 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