



**Tacoma**

City of Tacoma  
Planning and Development Services

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**VARIANCE PERMIT  
APPLICATION FOR:**

**FILE NO. LU18-0315**

Andrew Harris  
David Evans and Associates, Inc.  
2106 Pacific Avenue, Suite 400  
Tacoma, WA 98402

**SUMMARY OF REQUEST:**

An average lot width variance is requested to allow for a future boundary line adjustment for single-family residential development.

**LOCATION:**

2127 South Ainsworth Avenue, Parcel No. 7685003301

**SUMMARY OF DECISION:**

The request for an average lot width variance is **Approved**, subject to conditions.

**Notes:**

The appeal period on this decision closes March 6, 2019, and the effective date of this decision is the following business day, provided no requests for reconsideration or appeals are timely filed as identified in APPEAL PROCEDURES of this report and decision.

The Director has jurisdiction in this matter per TMC 13.05.030. The applicant bears the burden of proof to demonstrate the proposal is consistent with the provisions of the TMC, the applicable provisions and policies of the City's Comprehensive Plan, and other applicable ordinances of the City.

**FOR ADDITIONAL INFORMATION CONCERNING THIS LAND USE PERMIT PLEASE  
CONTACT:**

Shanta Frantz  
Planning and Development Services Department  
747 Market Street, Room 345, Tacoma, WA 98402  
253-591-5388 / [sfrantz@cityoftacoma.org](mailto:sfrantz@cityoftacoma.org)

## **SUMMARY OF RECORD**

The following attachments and exhibits constitute the administrative record:

Attachment:

Attachment "A": Survey/Site plan

Exhibits<sup>1</sup>:

Exhibit "A": City Departmental Comments

Exhibit "B": Applicant's Justification for the Variance

## **FINDINGS**

**Proposal:** See Attachment "A".

1. The applicant requests an average lot width variance to allow for a future boundary line (BLA) adjustment for single-family residential development.
2. The existing site contains four historic underlying lots, Lots 12-15.
3. The BLA would create Parcel A for the existing single-family home to be retained and allow for a new single-family home on Parcel B. The BLA application has been submitted for review under LU18-0314.
4. Vehicle access will continue to be provided from the alley along the east rear property line.
5. The variance allows the internal lot line between lots 14 and 15 to be adjusted to the north to create Parcel B, which would have an average lot width of 29.44 feet, where 35 feet is required for small lots under TMC 13.06.100.D.2.
6. The proposal to shift the underlying lot line by only 4.44 feet to the north is to allow for the required 5-foot south side yard setback for the existing home.
7. Under this proposal, Parcel A will be standard lot with 9,170 sq ft in lot area and have an average lot width of 70.58 feet.
8. Parcel B will be a small lot with 3,826 sq ft in lot area and have an average lot width of 29.44 feet. Development for this parcel will be subject to the applicable small lot development standards under TMC 13.06.145.

### **Project Site:**

9. The site is located within the "R-2-STGPD" Single-Family Dwelling District with a South Tacoma Groundwater Protection District Overlay.
10. The City's Comprehensive Plan designates the site as "Single-Family Residential" and is located within the Central Neighborhood Council District.
11. The existing property is 100 feet wide by 130 feet deep. It is currently developed with a single-family home that was built in 1950 and is located at the center of site, with 30 feet to the north side property line and 35 feet to the south side property line.

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<sup>1</sup> All Exhibits are contained in Planning and Development Services Department File No. LU18-0315. They are referenced and incorporated herein as though fully set forth.

### **Surrounding Area:**

12. The surrounding properties are developed with single-family dwellings, religious assembly and public facilities typically found in residential neighborhoods. Most homes were built in the early to mid-1900s. In addition to the two small lots with 25-foot frontages located directly south of the subject site, there are 12 other small lots on the block surrounded by South 21<sup>st</sup> Street, South Ainsworth Avenue, South 23<sup>rd</sup> Street and South Cushman Avenue. These properties' lot width range from 25 – 40 feet wide and lot area ranges from 3,250 – 5,200 sq ft.
13. The subject site is located within a block that is 4.06 net acres in size. There are 26 existing single-family dwellings on the block. Therefore, the existing density for the block is 6.41 dwelling units per net acre. With this proposal, the density for the block will be 6.65 dwelling units per net acre.

### **Notification and Comments:**

14. The application was determined to be complete on November 28, 2018. Written notice of the application was mailed to owners of property within 100 feet of the site as indicated by the Pierce County Assessor/Treasurer's records, the neighborhood council, and qualified neighborhood groups, allowing for 14 days of comment period. Public notice was posted on the site within seven days of the start of the comment period. No public comments were submitted.
15. Local governmental agencies and utility providers have reviewed the requested permit. Comments are included as Exhibit "A" and included as Conditions or Advisory Notes as applicable.

### **Additional Information:**

16. The Survey/Site Plan for this proposal shows an existing 4-foot chain link fence located within the South Ainsworth Avenue right-of-way. However, it appears from that chain link fence has been removed since the survey was created. A condition to this variance decision has been added to address whether the chain link fence is still located within the public right-of-way.
17. The applicant's justification for the Variance application is marked as Exhibit "B" to this report and decision. In summary, the applicant states the following:
  - The location of the existing house at the center of the site creates a hardship, making it impossible to comply with 35-foot minimum small lot width and still maintain the home.
  - That a variance to allow the proposed parcel to be less than 35 feet wide is consistent with existing lots and the development pattern in the neighborhood.
  - That the strict application of the code would be unreasonable because while the existing site is 13,000 sq ft, over twice the size of most properties on the block, and the City's Small Lot Development Code allows for subdivisions with an average lot area of 4,500 sq ft, this site cannot take advantage of these provisions because it will not be able to comply with the minimum 35-foot width requirement due to the location of the existing home.
  - That variance request is the minimum necessary to afford relief in that the shared line will be adjusted only enough to allow for the required 5-foot south side yard setback for

the existing home. This 5.56-foot variance request is only a 15.8% reduction in the 35-foot lot average width requirement.

- That the proposed 3,826 sq ft lot is in between the 4,500 lot area for Level 1 Small Lots and 3,000 sq ft lot area for Level 2 Small Lots. That the proposed lot size and residential use are reasonable in context of the other small lots in this residential neighborhood.
- That the proposal will help to increase the density in an existing built-out neighborhood where adequate facilities already exist and reduce urban sprawl which is in-keeping with the Washington Growth Management Act.
- That the proposal is consistent with Policy H-1.7 of the City's Comprehensive Plan that promotes the use of land use incentives such as lot size reductions to support the development of new housing units.
- That proposed lot width of less than 35 feet is consistent with the neighborhood character in that there are multiple lots nearby with similar lot sizes as the proposal.
- That the proposal will not reduce any required setback requirements, it will not adversely affect the neighbors, and that approval of the variance request would not grant a special privilege that others in the neighborhood could not be allowed.

### **Applicable Regulations and Policies:**

18. TMC Sections 13.06.100.C. and D. allow for single-family detached dwellings and small lot development within the "R-2" District.
19. Under TMC Section 13.06.100.D.1., the minimum lot area may be reduced to 3,000 sq ft in the "R-2" District, through lot size averaging for plats. This exception is also applied by staff for boundary line adjustments when there are no conditions or improvements required for the application that would have been required under a plat proposal.
20. TMC Section 13.06.645.B.1. contains the criteria for approval of a lot width variance.
21. The Comprehensive Plan, which sets forth policy regarding development in the City of Tacoma, provides the following policy guidance relative to residential development:

### **COMPREHENSIVE PLAN LAND USE DESIGNATION**

#### **Single-Family Residential**

Qualities associated with single-family residential designations that are desirable include: low noise levels, limited traffic, large setbacks, private yards, small scale buildings, and low-density development. Community facilities, such as parks, schools, day cares, and religious facilities are also desirable components of residential neighborhoods. Limited allowances for other types of residential development are also provided for in the single-family designation with additional review to ensure compatibility with the desired, overarching single-family character. In some instances, such as the HMR-SRD, areas designated for single family residential development have an historic mix of residential densities and housing types which should be maintained while allowing for continued expansion of housing options consistent with the single family designation.

*Target Development Density: 6–12 dwelling units/net acre*

### **HOUSING ELEMENT**

#### **GOAL H-1**

Promote access to high-quality affordable housing that accommodates Tacomans' needs,

preferences, and financial capabilities in terms of different types, tenures, density, sizes, costs, and locations.

**Policy H-1.4** Promote the maintenance and improvement of the existing housing stock and encourage the adaptation of the existing housing stock to accommodate the changing variety of household types.

**Policy H-1.7** Consider land use incentives (e.g. density or development bonuses, lot size reductions, transfer of development rights, height or bulk bonuses, fee waivers, accelerated permitting, parking requirement reductions, and tax incentives) in appropriate locations to facilitate the development of new housing units.

## CONCLUSIONS<sup>2</sup>

1. Provided the conditions of approval are met, the proposal meets the criteria identified in *TMC 13.06.645.B.1.* for approval of a lot width variance as follows:
  - a. *The restrictive effect of the specific zoning regulation construed literally as to the specific property is unreasonable due to unique conditions relating to the specific property, and which do not result from the actions of the applicant, such as: parcel size; parcel shape; topography; location; documentation of a public action, such as a street widening; proximity to a critical area; location of an easement; or character of surrounding uses.*

The existing property is approximately 13,000 square feet, which is a sufficient size to be subdivided in the “R-2” District. The location of the existing home makes division in the east/west direction impossible without a substantial alteration or demolishing house. This is a unique condition relating to the specific property that makes the restrictive effect of the zoning regulation unreasonable. See Attachment “A”, Exhibit “B”; Findings 11 and 17.
  - b. *The requested variance does not go beyond the minimum necessary to afford relief from the specific hardship affecting the site.*

The requested variance does not go beyond the minimum to afford relief. The amount of variance requested is just enough to maintain the required 5-foot south side yard setback for the existing home. See Attachment “A” and Exhibit “B”; Findings 6 and 17.
  - c. *The grant of the variance would allow a reasonable use of the property and/or allow a more environmentally sensitive site and structure design to be achieved than would otherwise be permitted by strict application of the regulation, but would not constitute a grant of special privilege not enjoyed by other properties in the area*

The grant of the variance will allow a reasonable use and will not be a grant of special privilege since if other sites presented similar circumstances, they would be afforded similar relief. See Attachment “A” and Exhibit “B”; Findings 12, 17 and 18.
  - d. *The grant of the variance will not be materially detrimental or contrary to the Comprehensive Plan and will not adversely affect the character of the neighborhood and the rights of neighboring property owners.*

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<sup>2</sup> Conclusions are based upon the applicable criteria and standards set forth in the *Tacoma Municipal Code (TMC)*, the policies of the Comprehensive Plan, and the Attachment and Exhibits listed herein. Any conclusion of law hereinafter stated which may be deemed a finding of fact herein is hereby adopted as such.

The existing house was built in 1950 and is part of the existing neighborhood character. Granting the average lot width variance will allow retention of an existing home, while allowing additional development of housing stock. The new lot will be developed in conformance with the small-lot development standards of TMC 13.06.145. In addition, no written comments from the neighbors were received. Therefore, granting the average lot width variance, would not be contrary to the Comprehensive Plan and would not adversely affect the character of the neighborhood or the rights of the neighboring property owners. See Attachment "A"; Exhibit "B" and; Findings 11-14, 17 and 21.

- e. *The grant of the variance will not cause a substantial detrimental effect to the public interest*

The proposal is consistent with the Comprehensive Plan and will not have a detrimental effect on neighboring properties. Therefore, it will not cause a substantial detrimental effect to the public interest.

- f. *Standard corporate design and/or increased development costs are not cause for variance.*

No information has been submitted to indicate that standardized corporate design and/or increased development costs were cause for the variance request.

### **DECISION**

Based upon the above findings and conclusions, the request average lot width variance is **Approved**, subject to the following condition:

Condition:

1. If the chain link fence shown located within the South Ainsworth Avenue right-of-way is no longer there, it shall be removed from the Survey/Site Plan prior to its recording for the BLA application. If the fence is still located in the right-of-way, then a Right-of-Way permit shall be obtain to allow it to remain or evidence shall be provided showing that it has been removed and it shall be removed from the Survey/Site Plan prior to its recording for the BLA application.

Advisory Note:

Additional advisory notes are provided in Exhibit A. These notes are not conditions of the permit nor do they constitute a complete review of the project.

ORDERED this 20th day of February, 2019.

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Peter Huffman  
Director, Planning and Development  
Services Department

**FULL DECISION TRANSMITTED** by first class mail or e-mail to:

Andrew Harris, David Evans and Associates, Inc., 2106 Pacific Avenue, Suite 400, Tacoma, WA

98402

Richard Abderhalden, 911 North Yakima Avenue, Apartment 1, Tacoma, WA 98403-2431

**E-Mail – City Staff:**

Ronda Cornforth, Jennifer Kammerzell, Chris Seaman, Vicki Marsten, Lyle Hauenstein, Trevor Perkins, Shelly Shaffer, Lucas Shadduck, Dan Reed.

**SUMMARY OF DECISION TRANSMITTED** by first class mail or e-mail to the following:

All property owners within 100 feet of the subject site  
Central Neighborhood Council  
Neighborhood Planning Team Members: Brian Boudet, Ian Munce, and Carol Wolfe

PURSUANT TO RCW 36.70B.130, YOU ARE HEREBY NOTIFIED THAT AFFECTED PROPERTY OWNER(S) RECEIVING THIS NOTICE OF DECISION MAY REQUEST A CHANGE IN VALUATION FOR PROPERTY TAX PURPOSES CONSISTENT WITH PIERCE COUNTY'S PROCEDURE FOR ADMINISTRATIVE APPEAL. TO REQUEST A CHANGE IN VALUE FOR PROPERTY TAX PURPOSES YOU MUST FILE WITH THE PIERCE COUNTY BOARD OF EQUALIZATION ON OR BEFORE JULY 1ST OF THE ASSESSMENT YEAR OR WITHIN 30 DAYS OF THE DATE OF NOTICE OF VALUE FROM THE ASSESSOR-TREASURER'S OFFICE. TO CONTACT THE BOARD CALL 253-798-7415 OR [WWW.CO.PIERCE.WA.US/BOE](http://WWW.CO.PIERCE.WA.US/BOE).

**RECONSIDERATION/APPEAL PROCEDURES**

Any request for RECONSIDERATION and/or any APPEALS must be submitted in the applicable manner as outlined below on or before **March 6, 2019**.

**RECONSIDERATION:**

Any person having standing under the ordinance governing this application and feeling that the decision of the Director is based on errors of procedure or fact may make a written request for review by the Director within fourteen (14) days of the issuance of the written order. This request shall set forth the alleged errors, and the Director may, after further review, take such further actions as deemed proper, and may render a revised decision. A request for RECONSIDERATION of the Director's decision in this matter must be filed in writing to the staff contact listed on the first page of this document.

**APPEAL TO HEARING EXAMINER:**

Any decision of the Director may be appealed by any aggrieved person or entity as defined in Section 13.05.050 of the *Tacoma Municipal Code*, within fourteen (14) days of the issuance of this decision, or within seven (7) days of the date of issuance of the Director's decision on a reconsideration, to appeal the decision to the Hearing Examiner.

"The Rules of Procedures for Hearings" may be viewed at:

[http://cms.cityoftacoma.org/hex/HEX\\_RulesofProcedureforHearings\\_ResolutionNo39843\\_Adopted10.pdf](http://cms.cityoftacoma.org/hex/HEX_RulesofProcedureforHearings_ResolutionNo39843_Adopted10.pdf)

An appeal to the Hearing Examiner is initiated by filing a Notice of Appeal accompanied by the required filing fee of **\$1,000.00**. Filing of the appeal shall not be complete until both the Notice of Appeal and required filing fee has been received. THE FEE SHALL BE REFUNDED TO THE

APPELLANT SHOULD THE APPELLANT PREVAIL. (Pursuant to Section 2.09.020 of the *Tacoma Municipal Code*, fees for appeals shall be waived for qualifying senior citizens and persons who are permanently handicapped who are eligible for tax exemption because of financial status.)

The Notice of Appeal must be submitted in writing to the Customer Service Center, Second Floor, Tacoma Municipal Building, and shall contain the following:

- (1) A brief statement showing how the appellant is aggrieved or adversely affected.
- (2) A statement of the grounds for the appeal, explaining why the appellant believes the administrative decision is wrong.
- (3) The requested relief, such as reversal or modification of the decision.
- (4) The signature, mailing address and telephone number of the appellant and any representative of the appellant.