

**A. ADMINISTRATIVE REPORT & DECISION**

**DECISION LOT WIDTH VARIANCE:**  APPROVED  APPROVED SUBJECT TO CONDITIONS  DENIED

**DECISION SETBACK VARIANCE:**  APPROVED  APPROVED SUBJECT TO CONDITIONS  DENIED

**REPORT DATE:** September 14, 2017

**Project Name:** Dobson Variance

**Owner:** Laverne Graves, 905 N 28<sup>th</sup> Place, Renton, WA 98056

**Applicant/Contact:** Steve Dobson, 1016 N 33<sup>rd</sup> Place, Renton, WA 98056

**Project File Number:** PR17-000406

**Land Use File Number:** LUA17-000519, V-A

**Project Manager:** Jill Ding, Senior Planner

**Project Summary:** The applicant is requesting an Administrative Variance to the minimum lot width requirements for a corner lot, a side yard setback Variance for the existing single family residence and garage, and a Variance to allow the garage to remain on the newly segregated lot as part of a proposed lot segregation. The project site is located within the Residential-8 (R-8) zone, which requires a minimum lot width of 60 feet for corner lots and a side yard setback of 5 feet. The applicant is proposing a corner lot with a minimum width of 50 feet and a side yard setback of 0 feet for both the existing single family residence and garage. The applicant proposes to retain the existing residence and garage in their current location until such time as the existing structures are removed, and a permit is obtained for new single family residential structures, the new residences would be required to comply with the required setbacks. A Wellhead Protection Area, zone 2 and a sensitive slope are mapped on the project site.

**Project Location:** 905 N 28<sup>th</sup> Place

**Site Area:** 11,151 sq. ft. (0.26 acres)



Project Location Map

**B. EXHIBITS:**

- Exhibit 1: Staff Report
- Exhibit 2: Site Plan
- Exhibit 3: Public Comment from Paul Gee and Diane Honda
- Exhibit 4: Staff Response to Public Comment

**C. GENERAL INFORMATION:**

- 1. **Owner(s) of Record:** Laverne Graves  
905 N 28<sup>th</sup> Place  
Renton, WA 98056
- 2. **Zoning Classification:** R-8
- 3. **Comprehensive Plan Land Use Designation:** Residential Medium Density
- 4. **Existing Site Use:** Single family residence and detached garage.
- 5. **Critical Areas:** Sensitive slopes and Wellhead Protection Area Zone 2
- 6. **Neighborhood Characteristics:**
  - a. **North:** *Single Family Residential (R-8)*
  - b. **East:** *Single Family Residential (R-8)*
  - c. **South:** *Single Family Residential (R-8)*
  - d. **West:** *Single Family Residential (R-8)*
- 6. **Site Area:** 11,151 sq. ft. (0.26 acres)

**D. HISTORICAL/BACKGROUND:**

<u>Action</u>	<u>Land Use File No.</u>	<u>Ordinance No.</u>	<u>Date</u>
Comprehensive Plan	N/A	5758	06/22/2015
Zoning	N/A	5758	06/22/2015
Annexation	N/A	1821	03/31/1960

**E. APPLICABLE SECTIONS OF THE RENTON MUNICIPAL CODE:**

- 1. **Chapter 2 Land Use Districts**
  - a. Section 4-2-020: Purpose and Intent of Zoning Districts
  - b. Section 4-2-070: Zoning Use Table
  - c. Section 4-2-110: Residential Development Standards
- 2. **Chapter 3 Environmental Regulations**
  - a. Section 4-3-050: Critical Area Regulations
- 3. **Chapter 4 Property Development Standards**
- 4. **Chapter 6 Streets and Utility Standards**
  - a. Section 4-6-060: Street Standards

5. **Chapter 9 Permits – Specific**
  - a. Section 4-9-250: Variances, Waivers, Modifications, and Alternates
6. **Chapter 11 Definitions**

**F. APPLICABLE SECTIONS OF THE COMPREHENSIVE PLAN:**

1. Land Use Element

**G. FINDINGS OF FACT (FOF):**

1. The Planning Division of the City of Renton accepted the above master application for review on August 3, 2017 and determined the application complete on August 21, 2017. The project complies with the 120-day review period.
2. The project site is located 905 N 28<sup>th</sup> Pl.
3. The project site is currently developed with an existing single family residence and garage.
4. Access to the site would be provided via driveway access off of N 28<sup>th</sup> Pl.
5. The property is located within the Residential Medium Density Comprehensive Plan land use designation.
6. The site is located within the R-8 zoning classification.
7. A Wellhead Protection Area, zone 2 and a sensitive slope are mapped on the project site.
8. The applicant has requested a variance to allow a stand alone detached garage to remain on one of the lots until such time as a building permit is applied for to construct a new single family residence. In accordance with RMC 4-2-110B Accessory structures shall only be allowed on lots in conjunction with a primary use. Per RMC 4-2-110D Use-related provisions are not variable. Use-related provisions that are not eligible for a variance include: building size, units per structure/lot, or densities. The requested variance to allow a stand alone garage to remain on one lot is a use-related provision and is not eligible for a variance. To allow for the segregation of the lots, staff recommends, as a condition of approval that the detached garage be removed prior to the approval of the lot segregation.
9. The applicant has requested a lot width variance to allow a corner lot with a 50-foot width, which is 10 feet less than the 60-foot minimum width required in the R-8 zone.
10. The applicant has requested a setback variance to allow the existing residence to project into the 5-foot side yard setback required from the east property line.
11. Staff received one public comment letter (Exhibit 3). Staff provided a written response to the public comments received (Exhibit 4). To address public comments the following report contains analysis related to the retention of the existing residence.
12. Representatives from various city departments have reviewed the application materials to identify and address issues raised by the proposed development. These comments are contained in the official file, and the essence of the comments has been incorporated into the appropriate sections of this report and the Departmental Recommendation at the end of this report.
13. **Variance Analysis:** The applicant has requested a variance from the minimum lot width requirements to allow a corner lot with a minimum width of 50 feet in the R-8 zone. The applicant has also requested a setback variance to allow the existing residence to project within the required 5-foot side yard setback along the east property line. The proposal is partially compliant with the following variance criteria, pursuant to RMC 4-9-250. Therefore, staff recommends partial approval of the requested Variances.

Compliance	Variance Criteria and Analysis
<p><b>Partial Compliance Demonstrated</b></p>	<p>a. That the applicant suffers practical difficulties and unnecessary hardship and the variance is necessary because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings of the subject property, and the strict application of the Zoning Code is found to deprive subject property owner of rights and privileges enjoyed by other property owners in the vicinity and under identical zone classification.</p> <p><i>Staff Comment: The applicant contends that the lot width variance is needed because he suffers practical difficulties that deprive him of rights and privileges enjoyed by other property owners in the vicinity. When the lots were originally subdivided in the neighborhood, they were created as 50-foot wide lots. The granting of the variance to allow a 50-foot wide corner lot would allow the underlying lots to be consistent with the width of the other lots in the surrounding neighborhood. Staff concurs that the applicant suffer practical difficulties and that the lot width variance is needed to ensure the applicant is not deprived of rights and privileges enjoyed by other property owners in the vicinity.</i></p> <p><i>The applicant contends that the requested setback variance is needed to allow the existing residence to remain on the underlying corner lot and that the residence would be removed upon City receipt of a building permit application. The applicant further proposed the recording of a document that would notify future purchases of the lot that any future building on the site would not be vested to the current building setbacks, but would instead be subject to the City's current setback requirements. Staff does not concur that this variance qualifies as a hardship. It appears based on the submitted application materials, that the existing residence could be modified to bring it into compliance with the minimum 5-foot setback requirement from the east property line. Staff recommends, as a condition of approval, that the existing single family residence be brought into compliance with the all required setback areas prior to the approval of a lot segregation.</i></p>
<p><b>Partial Compliance Demonstrated</b></p>	<p>b. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated.</p> <p><i>Staff Comment: The applicant contends that the granting of the requested lot width variance would not be materially detrimental to the public welfare or injurious to other properties in the vicinity. The required variance would allow the corner lot to remain at a width of 50 feet, which is consistent with other lot widths in the immediate vicinity of the project site. Staff concurs that the requested lot width variance would not be materially detrimental to other properties in the vicinity.</i></p> <p><i>The applicant contends that the granting of the requested setback variance would not be materially detrimental to the public welfare or injurious to other properties in the vicinity as the residence is existing. Staff does not concur that the granting of the setback variance wouldn't be detrimental to the public welfare. There is no guarantee that the existing residence would be brought into compliance with the required setbacks at a later date. Furthermore, a new home could be constructed in compliance with the 5 ft. side yard setback requirement on the newly segregated lot to the east, resulting in two homes with a 5 ft. separation. Pursuant to fire code, a minimum of 6 ft. is required to construct a home without a one hour fire wall. As such, approval of the setback variance would be injurious to the property in the vicinity as it would</i></p>

	<p><i>artificially increase the cost of building a home by requiring the new home to comply with fire code standards that would not be required if the setbacks were met. Therefore, as previously conditioned above, staff recommends, that the existing residence be brought into compliance with the required setbacks prior to the approval of the lot segregation.</i></p>
<p><b>Partial Compliance Demonstrated</b></p>	<p>c. That approval shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the subject property is situated.</p> <p><i>Staff Comment: The applicant contends that the granting of the requested lot width variance would not constitute a grant of special privilege and many existing lots in the surrounding neighborhood have widths of 50 feet. The granting of the variance would allow the property to be segregated into two existing lots with widths of 50 feet, which is consistent with the widths of the surrounding lots. Staff concurs that the granting of the lot width variance would not be a grant of special privilege as it allows the existing site to be segregated into its underlying lots and the widths of both underlying lots would be consistent with the widths of other lots in the vicinity.</i></p> <p><i>The applicant contends that the granting of the requested setback variance would not constitute a grant of special privilege, as the encroachment would be temporary and would be corrected upon the removal of the existing house and the construction of the new residences on the site. Staff does not concur, as there is no timeline for the removal of the residence and any future purchasers of the lot may not elect to remove the existing residence. As conditioned above, staff recommends that the existing residence be brought into compliance with the required setbacks prior to the approval of the lot segregation.</i></p>
<p><b>Partial Compliance Demonstrated</b></p>	<p>d. That the approval is a minimum variance that will accomplish the desired purpose.</p> <p><i>Staff Comment: The applicant contends that the requested lot width variance is the minimum necessary to allow for the approval of the segregation of the site into its two underlying lots and that the widths of the lots would be consistent with the widths of other lots in the immediate vicinity of the project site. Staff concurs that the requested lot width variance is the minimum necessary to allow the applicant to segregate the project site into the existing underlying lots.</i></p> <p><i>The applicant contends that the requested setback variance is the minimum necessary to allow for the retention of the existing single family residence and that any future building on the site would be required to comply with all required setbacks. Staff does not concur that the requested setback variance is the minimum necessary to accomplish the desired purpose of retaining the existing residence as it appears that the residence could be modified such that it could be brought into compliance with all required setback areas. As previously recommended above, staff is recommending that the existing residence be brought into compliance with all required setback areas prior to the approval of the lot segregation.</i></p>

**H. CONCLUSIONS:**

1. The requested variance to allow a standalone detached garage on one of the lots is not a variable item and is not eligible for a variance; therefore no analysis of this request was provided in this decision.

2. The requested lot width variance complies with all four of the variance criteria as established by City Code provided all advisory notes and conditions of approval are complied with, see FOF 13.
3. The requested setback variance does not comply with any of the four variance criteria as established by City Code; therefore staff is recommending denial of this variance and the modification of the existing residence to bring it into compliance with all required setbacks prior to the approval of the lot segregation, see FOF 13.

**I. DECISION:**

The Dobson setback variance is denied. The Dobson lot width variance, File No. LUA17-000519, as depicted in Exhibit 2, is approved and is subject to the following conditions:

1. The detached garage shall be removed prior to the approval of the lot segregation.
2. A building permit shall be obtained from the City of Renton and all inspections shall be completed and the permit finalized for the modification of the existing single family residence to bring it into compliance with the all required setbacks prior to the approval of a lot segregation.

**DATE OF DECISION ON LAND USE ACTION:**

**SIGNATURE:**



**Jennifer Henning, Planning Director**

9/14/2017

**Date**

TRANSMITTED this 14<sup>th</sup> day of September, 2017 to the Owner/Applicant/Contact:

<i>Owner:</i>	<i>Applicant/Contact:</i>
Laverne Graves	Steve Dobson
905 N 28th Place	1016 N 33rd Place
Renton, WA 98056	Renton, WA 98056

TRANSMITTED this 14<sup>th</sup> day of September, 2017 to the Parties of Record:

Paul Gee and Diane Honda  
929 N 28<sup>th</sup> Place.  
Renton, WA 98056

TRANSMITTED this 14<sup>th</sup> day of September, 2017 to the following:

Chip Vincent, CED Administrator  
Brianna Bannwarth, Development Engineering Manager  
Amanda Askren, Property Services Manager  
Vanessa Dolbee, Current Planning Manager  
Fire Marshal

**J. LAND USE ACTION APPEALS, REQUEST FOR RECONSIDERATION, & EXPIRATION:**

The administrative land use decision will become final if the decision is not appealed within 14 days of the decision date.

**APPEAL:** This administrative land use decision will become final if not appealed in writing to the Hearing Examiner on or before 5:00 PM on September 28, 2017. An appeal of the decision must be filed within the 14-day appeal period (RCW 43.21.C.075(3); WAC 197-11-680), together with the required fee to the Hearing Examiner, City of Renton, 1055 South Grady Way, Renton, WA 98057. RMC 4-8-110.B governs appeals to the Hearing Examiner and additional information regarding the appeal process may be obtained from the City Clerk's Office, (425) 430-6510.

**EXPIRATION:** The Variance decision will expire two (2) years from the date of decision. A single one (1) year extension may be requested pursuant to RMC 4-9-250.

**RECONSIDERATION:** Within 14 days of the decision date, any party may request that the decision be reopened by the approval body. The approval body may modify his decision if material evidence not readily discoverable prior to the original decision is found or if he finds there was misrepresentation of fact. After review of the reconsideration request, if the approval body finds sufficient evidence to amend the original decision, there will be no further extension of the appeal period. Any person wishing to take further action must file a formal appeal within the 14-day appeal time frame.

**THE APPEARANCE OF FAIRNESS DOCTRINE:** provides that no ex parte (private one-on-one) communications may occur concerning the land use decision. The Doctrine applies not only to the initial decision, but to Appeals to the Hearing Examiner as well. All communications after the decision/approval date must be made in writing through the Hearing Examiner. All communications are public record and this permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence in writing. Any violation of this doctrine could result in the invalidation of the appeal by the Court.

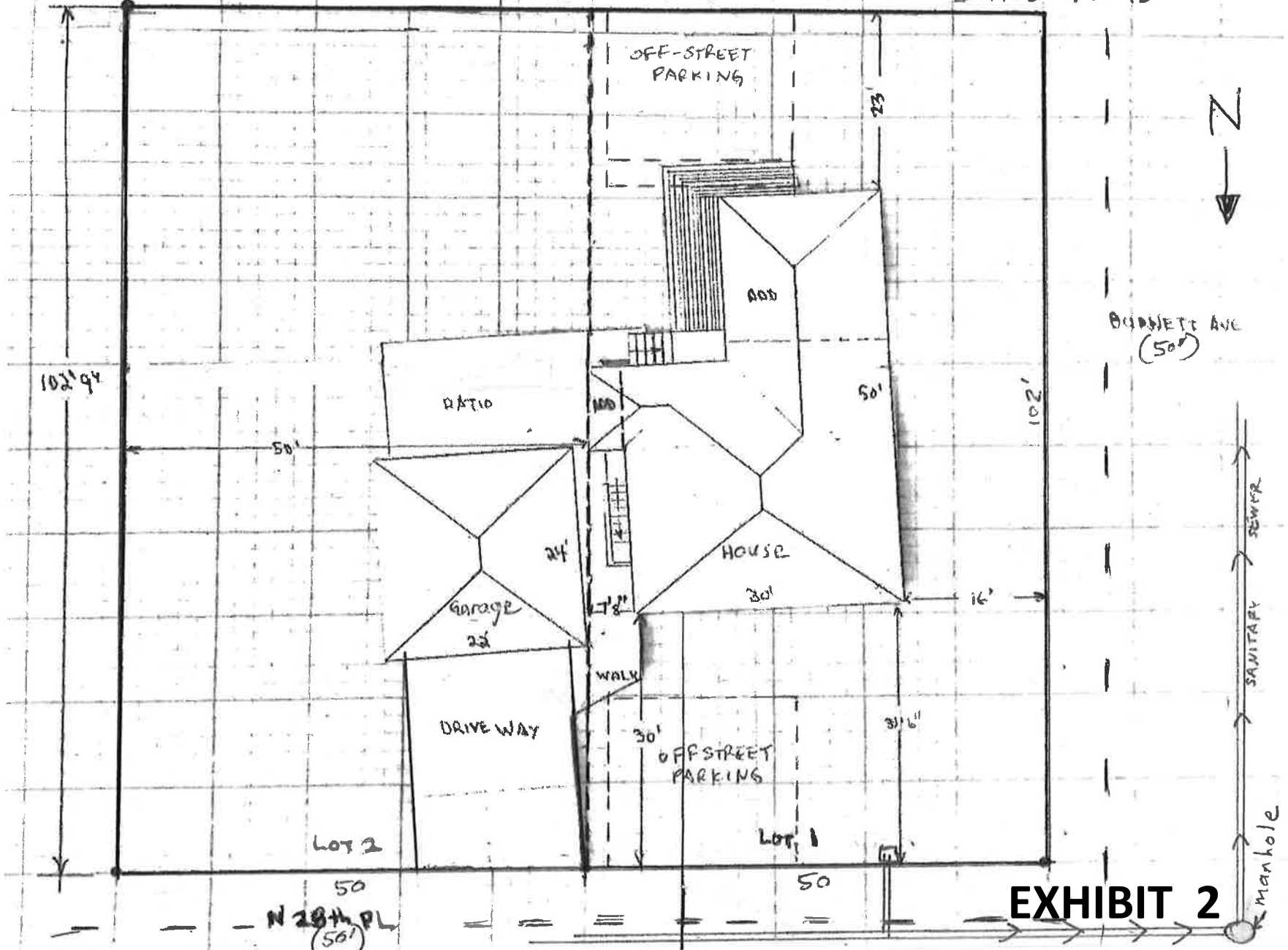
Address: 905 N 28<sup>th</sup> Pl.

# DOBSON Variance Site Plan

N - 28<sup>th</sup> (Private Drive)

DATE: 6-26-2017

SCALE: 1" = 15'





To: Jill Ding, Senior Planner  
Department of Community & Economic Development  
1055 South Grady Way  
Renton, WA 98057

CITY OF RENTON  
RECEIVED

SEP 5 2017

Subject: Dobson Variance (LUA17-000519)  
Date: September 5, 2017

DEVELOPMENT  
SERVICES

Hello, Jill.

Please accept the following comments regarding the subject proposed variance.

Most importantly, the minimum required lot sizes and setbacks exist for a reason. This proposal has no compelling reason to warrant a variance to the requirements. We are not fans of packing in more houses than the code allows.

When considering the proposed side yard variance, allowing a side yard setback of zero feet may seem benign for as long as the existing structures remain "as is". However, future owners may choose options other than a tear down when it comes to property improvements. For example, a future owner of the east lot could remodel the garage into a single family dwelling resulting in a side yard setback of less than 5 feet. There are many examples of this in the Seattle area, where houses or garages have a grandfathered in setback of less than 5 feet. As long as you don't tear the structure down, you can remodel and keep it where it is.

It is our hope that the city will decline the Dobson variance request. However, if the city is inclined to approve the Dobson variance, please consider the addition of language that requires the removal of all existing structures. This would negate any future issues regarding a zero foot side yard variance.

Respectfully,

Paul Gee and Diane Honda  
929 N 28<sup>th</sup> Pl  
Renton, WA 98056

**EXHIBIT 3**

Denis Law Mayor



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**Community & Economic Development** C. E. "Chip" Vincent, Administrator

September 13, 2017

Paul Gee and Diane Honda  
929 N 28<sup>th</sup> Place  
Renton, WA 98056

**RE: Dobson Variance (LUA17-000519, V-A)**

Dear Mr. Gee and Ms. Honda:

Thank you for your comments regarding the Dobson Variance. I have included your comments in the official file for consideration by the decision maker. I have also added you as a party of record for this project. Once a decision is issued for this project, a 14-day appeal period will commence, during which you may appeal the City's decision, should you so choose.

If you have additional questions, feel free to contact me at (425) 430-6598 or [jdilling@rentonwa.gov](mailto:jdilling@rentonwa.gov).

Sincerely,

A handwritten signature in black ink that reads "Jill K. Ding".

Jill Ding  
Senior Planner

**EXHIBIT 4**