

F4I

JOHN E. GALT
Quasi-Judicial Hearing Services
927 Grand Avenue
Everett, Washington 98201
Voice/FAX: (425) 259-3144
e-mail: jegalt@gte.net

MEMORANDUM

To: Lynnwood City Council
Lynnwood Planning Commission

CC: Mayor Don Gough
✓ David Osaki, Community Development

From: John E. Galt, Hearing Examiner 

Date: January 28, 2008

Subject: Annual Report for 2007

The Lynnwood Municipal Code provides for an annual report from the Hearing Examiner to the City Council and Planning Commission:

The Examiner shall report in writing to and meet with the Planning Commission and City Council at least annually for the purpose of reviewing the administration of the land use policies and regulatory ordinances, and any amendments to City ordinances or other policies or procedures which would improve the performance of the Examiner process. Such report shall include a summary of the Examiner's decisions since the last report.

[LMC 2.22.170] This Report covers the cases which I decided during 2007. The report is divided into two parts: Hearing Activity and Discussion of Issues. I am available to meet at a time of mutual convenience with Council and/or Planning Commission at your request.

Hearing Activity

I decided 17 land use applications during 2007, covering 16 separate projects. Each case is listed on the attached table in chronological order of hearing. Abbreviations are mostly self-explanatory: "V Ext." and "Var Ext" are both a request to extend the term of a previously approved variance; "Sum Dis" is Summary Dismissal of an appeal, indicating that the appeal was dismissed on procedural grounds before it was scheduled to come to hearing.

By comparison, I decided seven cases in 2006, 16 cases in 2005, 3 cases in 2004, 11 cases in 2003, and 20 cases in 2002.

Discussion of Issues

I would like to bring to your attention an issue which arose in the pair of Gillen variances. (See Table.) Both Gillen variances involved substandard lots: Gillen sought variances to relax lot width on each of two abutting lots. Section 21.12.300 LMC contains a provision allowing development of substandard lots, but only if they meet a certain threshold size. In Gillen's case, neither lot met that threshold. Part of Staff's argument in support of the applications was that denial of the right to build on the lots (or requiring that they be joined for development as one lot) would likely constitute a "taking." Although I decided those cases on other grounds, the underlying legal issue remains a concern. If Staff believes that a code provision may expose the City to "takings" challenges, it would be advisable to revise that code provision to eliminate that legal exposure.

LYNNWOOD
HEARING EXAMINER DECISIONS - 2007

File Number Decision Date	Applicant Name <i>Project Name</i>	Case Type Acreage	Decision No. of Lots
06-4100-7106.6 01/26/2007	James B. Potter <i>Landmark III building</i>	FC N&O Ap	Sustain
2006VAR0003 03/07/2007	Windermere Alderwood real estate, Inc.	Var .45	OKw/c
2006ERC0021 03/07/2007	George & Chong Whitehead <i>Windermere Alderwood real estate</i>	SEPA Ap .45	Sum Dis
2007CUP0002 05/17/2007	T-Mobile	CUP	OKw/c
2007CUP0001 05/17/2007	186th Place LLC	CUP .40	OKw/c
2007CUP0003 05/17/2007	BP West Coast Products/ARCO	CUP .91	OKw/c
2005VAR0001 07/09/2007	Bodine Construction Company Inc.	V Ext	OKw/c
2006CUP0002 07/09/2007	Edmonds School District No. 15 <i>District Support Center</i>	CUP 19.80	OKw/c
2007PLT0001 07/13/2007	Farbod Amini <i>Amini Plat</i>	Pre Plt 1.26	OKw/c 5.00
2005PLT0004 08/03/2007	30th Place West Associates, LLC <i>Alderidge II</i>	Pre Plt 5.30	OKw/c 17.00
2007MAI0001 08/29/2007	Ferencz Budai et al.	Ad Ap	Sum Dis
2007VAR0002 09/10/2007	Gilchrist Homes, LLC	Var	Deny
2007VAR0001 10/01/2007	White Peaks Investments, LLC	V 1.70	OKw/c
2006VAR0001 12/03/2007	Kevin Gillen	Var	OKw/c
2006VAR0002 12/03/2007	Kevin Gillen	Var	OKw/c
2004VAR0001 12/03/2007	Ralph Freese <i>Lynnwood Medical Building</i>	2nd Var Ext	OKw/c
2007CUP0003 12/07/2007	Surinder Rekhi	CUP .60	OKw/c 12.00