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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

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## Memorandum

**To:** John Galt, Hearing Examiner

**From:** Jeff Thomas, Interim Community Planning & Development Director

**Date:** September 20, 2021

**Re:** File Nos. CAO15-001 & VAR18-002 – Response to Hearing Examiner Remand

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Mr. Galt –

The applicant, MI Treehouse, LLC has revised a Reasonable Use Exception (CAO15-001) and applied for a Variance (VAR18-002), to construct a proposed house and associated improvements at 5637 East Mercer Way.

The proposed house and improvements are proposed to be located within a wetland, wetland buffer, and stream buffer, which is the basis for the Reasonable Use Exception (RUE) application. The proposed house is located within a required setback from an easement in order to reduce impacts to environmentally critical areas, which is the basis for the proposed Variance.

By way of background, the Hearing Examiner remanded the application in August 2020, citing a need for analysis of potential impacts related to geologically hazardous areas and clarification of an incomplete and internally inconsistent project file. In response to the Hearing Examiner's remand of the application, an updated staff report with exhibits are included herein for review and consideration.

The applicant has provided additional geotechnical analysis, a revised critical areas report, as well as an updated plan set including a site plan showing a re-flagged ordinary high water mark (OHWM) of Stream B, a modified building footprint, and a number of corrections as outlined in the staff report.

Based on this updated information, staff recommends the Hearing Examiner conditionally approve the proposed RUE and approve the Variance. The Mercer Island Municipal Code (MICC) is silent on how to handle remand decisions. Therefore, the City defers to the Hearing Examiner for how to proceed with the completion of this review process and issuance of a final decision on this proposal. All Parties of Record are receiving the updated staff report and the aforementioned additional submittals from the applicant. Please advise the City how you would like to proceed.