

**STATEMENT OF GORDON J AHALT IN OPPOSITION TO THE GRANTING OF A REASONABLE USE
EXCEPTION IN CASE CA015-001 7 VAR18-002**

JULY 26, 2020

Rebuttal to July 17, 2020 letter submitted by George Steirer to the Hearing Examiner:

1. The City of Mercer Island and the Applicant are not consistent in their application of code requirements. In Mr. Steirer's July 17, 2020 letter, his point **#5. The proposal is consistent with the purpose of this chapter and the public interest. (MICC 19.07.010), I. To require mitigation measures when unavoidable impacts to critical areas are proposed.** Mr. Steirer states, "Mitigation measure are proposed by the application, which includes enhancement of the critical areas, critical area buffers, and improving critical areas through the King County Mitigation Reserves program." This assumes the Applicant is not "vested" under the first Rue application in 2017 which the Examiner Vancil remanded back to the City to study the impact on the adjacent properties.

Therefore, if the Applicant's RUE application is now governed under the newer City Code then Treehouse must submit a survey of the site. We have not seen a site survey submitted as an exhibit. This is specifically critical to locating the southern Type II Watercourse on the site and relative to the location of the proposed home foundation. In my opposition letter submitted to the Hearing Examiner July 20, 2020 (Exh. 72), I included exhibits that show the southern Type II Watercourse was relocated approximately 25' northward and further away from the proposed home foundation after the prior site plan dated May 25, 2018. Attached is the City of Mercer Island GIS Portal showing the location of the southern Type II Watercourse. As I have explained, the southern Type II Watercourse follows the "V" in the contour lines in the May 25, 2018 site plan and in the attached MI GIS Portal map. The current site plan submitted by the applicant shows the southern Type II Watercourse located further north and along the ridgeline that separates the 2 Type II Watercourses on the property.

My visual inspection of the southern Type II Watercourse says the Watercourse follows a fairly straight line and does not bend to the north as shows on the current site plan, and I can see there is no elevation south of the stream that is lower than the stream itself, which would not be the case in the depiction shown on the current site plan.

It is reasonable and required that a survey show the location of both Type II Watercourses and a survey has not been submitted. Only a depiction by the architect on a site plan has been submitted.

If I am correct, then Mr. Steirer's statement in **5. K.** is incorrect as the foundation of the house will actually be located in the southern Type II Watercourse or extremely close to it which is not "minimizing impacts to critical areas and buffers to the greatest extent feasible" as stated in **5.K.**

A survey should also delineate the wetland boundary rather than relying on the architect's depiction of the wetland. The site plan shows the wetland boundary as having very sharp angles along the southern edge which is far from accurate and very different than the wetland boundary shown on the CHS surveys up to and prior to May 2018.

2. Mr. Streirer states in comment "**#1 The application of this chapter would deny all reasonable use of the property**" and in comment **#2 There is no other reasonable use with less impact on the critical area.**"

I disagree with both Mr. Streirer's comments on both of these points because a smaller footprint home with an 800sf footprint, as suggested by the City, could be developed with less impact on the site and adjacent properties, but Treehouse is focused on maximizing the size of the house to maximize the home price and profit at the expense of impacts on the site and adjacent properties.

Development of a 2,700+sf home on this site is also a contradiction to Mr. Streirer's response in **5.B.** where he states, "The goals and policies of the Growth Management Act include encouraging development in urban areas, reducing sprawl, and encouraging availability of affordable housing, (RCW 36.70A.110)(1)(2)(4)." (underline added for emphasis). A 2,700+sf house on Mercer Island is far from being considered Affordable Housing under the Growth Management Act (GMA) so it is not implementing the goals of the GMA.

3. In Mr. Streirer's comment **#4 The proposal does not pose an unreasonable threat to public health, safety, or welfare on or off the development proposal site.** (underline added for emphasis). Mr. Steirer states, "The report documents the soil stability and safety of the project (underline added for emphasis), through required mitigation techniques." This is the point that the Opposition and I have made that the GGNW reports and other technical reports have not addressed any conditions or impacts off the development proposal site as required by Examiner Vancil in 2017 ruling and remand.

4. This RUE application attempts to chip away at restrictions one at a time and what is missing is the big picture. I mentioned in my July 20, 2020 testimony that there are technically 4 variances being requested to approve this development.

i) not mitigating wetlands impacts in the same drainage basin as required by City code when this RUE was applied for,

ii) building in the setback of the northern Type II Watercourse,

iii) building in the setback of, and I contend actually in, the southern Type II Watercourse,

iv) building a home in a Category III Wetland,

plus 2 more variances<

v) reducing the driveway setback from the Stivelman property from 5' to 2',

vi) building within the buffer of the uphill hazardous slopes.

The point is, the entire proposed home sits in the buffer area of a Category III Wetland, 2 Type II Watercourses, and in the buffer of a hazardous slope (The City's designation) to the south.

What is reasonable about ignoring 6 restrictions to protect the public and the impact on the land and lake by granting permission for build a non-affordable home on a lot that cost \$32,094 to purchase? Why has Examiner Vancil's requirement to do a study to determine the impact of this development on adjacent properties not been required by the City? Why is a home much smaller than 2,700+sf not considered a lesser impact on the site and reasonable? Why is the requirement to maintain this site as a wetland not reasonable when the market value of the site is only \$32,094? The last two trades of ownership on this property have been in the \$30,000 to \$32,094 range which establishes market value. This would be a bargain price for the City of Mercer Island to acquire the property to maintain the wetland permanently.

Gordon J Ahalt

