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March 13, 2019

Via Email Only

Ms. Nicole Gaudette, Senior Planner, Community Planning & Development
City of Mercer Island
9611 SE 36th Street
Mercer Island, WA 98040-3732
nicole.gaudette@mercergov.org

Re: Your File Nos. CAO17-010 and SEP19-003
Applicant: Sang Hou

Dear Ms. Gaudette:

Concerned residents of East Mercer Highlands, named and listed on this letter recently received notice from the City of Mercer Island of a pending SEPA Determination of Non-Significance (“DNS”) relating to the property located at 4825 E. Mercer Way, and of the plans to construct a residence on that vacant lot. We are deeply concerned about this, but also by the City’s failure to keep the affected neighborhood fully advised of progress regarding the development of this lot. On behalf of all the neighbors noted, we make the following comments.

The current proposal is to reduce a wetland buffer on the subject property from 50 feet to 25 feet. Up until very recently, the investigations regarding the environmental impacts of building on the lot have focused principally upon bald eagle habitat (although other issues have also been addressed). In the last two weeks, however, nature has reminded us graphically of what the likely adverse consequences of development of any kind on this particular parcel of land will be. Attached hereto are two photographs which illustrate the impacts on the lot of the recent snow storm. Several trees, some within the 50-foot buffer and some on the border of the proposed 25-foot buffer have fallen over due to the weather.

As we can now easily see from the fallen trees, the saturated nature of the ground in the proposed construction zone has caused the depth of root systems to be extremely shallow and

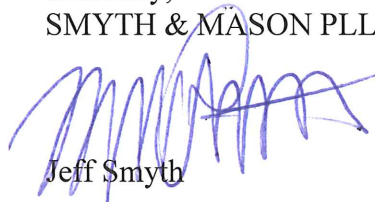
thus susceptible to inclement weather. This risk is exacerbated by the recent removal of several dozen trees from 9104 and 9112 SE 50th Street, situated above and to the west of the lot, which tree removal causes additional run-off into the stream passing through the subject lot. That stream flows continuously year-round and most recently in higher volume and is not intermittent as the City has erroneously concluded (Endorsers to this letter are willing to submit affidavits documenting continuous flow of the stream that traverses the subject property).

This letter is designed and intended to put the City of Mercer Island on express notice that any further degradation of the stability of the soils and tree cover by development of the lot places adjacent homes and their occupants at foreseeable and intolerable risk of injury or death. This plus the potential for serious damage to privately maintained East Mercer Highlands Drive resulting from falling trees and land movement is real and will render the City and all responsible parties liable for any such future damages and losses.

We note that the City is in the process of developing updates to the Critical Areas Code through the Planning Commission; code amendments that, to our knowledge, have not yet been adopted. We strongly believe the facts set forth above clearly indicate the sensitive nature of the area contemplated for the proposed project and believe the circumstances of the project make it a poster child for consideration under any tightened regulations concerning critical areas. Given the increasing awareness of the desire of developers to pursue projects on more challenging unbuilt areas, and in light of the City's statutory requirement to update its critical areas code and plan, we respectfully request that the application be held in abeyance pending completion of the update to code.

We also request that before the permit process proceeds further, the City should carefully consider the compelling evidence resulting from the recent storm and conclude, as we have done, that on balance the property rights of the lot's owner do not outweigh the risks of further destabilization of the slope and foreseeable injuries and losses to affected neighbors. Although the DNS notice indicates the City only seeks written comments on the proposal, the residents signing this letter respectfully request a meeting with DPS staff, it's director, and the City's attorney to address our concerns.

Sincerely,
SMYTH & MASON PLLC



Jeff Smyth

The following East Mercer Highlands residents concur, support, and endorse the above sentiment:

| <i>Name</i> | <i>Address*</i> | <i>Name</i> | <i>Address*</i> |
|----------------------|-----------------|------------------|-----------------|
| Gerry Kaelin | 4819 EMW | Arnie Eggebrecht | 4911 EMW |
| Christina Demopulos | 4819 EMW | Brian Thomas | 4811 EMW |
| Karolina Zalewska | 5011 EMW | Rosa Thomas | 4811 EMW |
| Timothy Fitzgerald | 4817 EMW | Larry Gottlieb | 4805 EMW |
| Verushka Fitzgerald | 4817 EMW | Kathy Gottlieb | 4805 EMW |
| Seth Davis | 4917 EMW | Catherine Wales | 4819 EMW |
| Celestine Davis | 4917 EMW | Jill Landauer | 4925 EMW |
| Brandon Alsin | 4815 EMW | Peter Hundrieser | 4925 EMW |
| Leeilah Archuleta | 4815 EMW | Debbie Hanson | 4905 EMW |
| Jeannette Eggebrecht | 4911 EMW | Dan Hanson | 4905 EMW |
| Bill Mohn | 4809 EMW | Colleen Mohn | 4809 EMW |
| Ken Beck | 4813 EMW | Karen Beck | 4813 EMW |
| Alex Kaelin | 4819 EMW | Nicholas Hanson | 4905 EMW |
| Matthew Hanson | 4905 EMW | Jaymee Johnson | 4907 EMW |
| Conner Hanson | 4905 EMW | Thomas Avant | 4915 EMW |
| Shelly Johnson | 4907 EMW | Barbara Rose | 4919 EMW |
| Ahisha Avant | 4915 EMW | Jeff Smyth | 5011 EMW |
| David Rose | 4919 EMW | Gail Shimooka | 5017 EMW |
| Dan Dean | 5017 EMW | Cheryl Hayes | 5021 EMW |
| Leo Catallo | 5021 EMW | Ramer Holtan | 5003 EMW |
| Clare Holtan | 5003 EMW | Marjorie Steffin | 5019 EMW |

*EMW = East Mercer Way

cc Julie Underwood, City Manager: julie.underwood@mercergov.org
Kari Sand (City Attorney): kari.sand@mercergov.org
Debbie Bertlin (Mercer Island Mayor): debbie.bertlin@mercergov.org
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Evan Maxim (Community Planning & Development Director): evan.maxim@mercergov.org
Rep. Tana Senn, Representative 41st District: tana.senn@leg.wa.gov



