

---

---

# CITY OF MERCER ISLAND

## Community Planning & Development

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | [www.mercergov.org](http://www.mercergov.org)

---

---



October 10, 2023

Bill Summers, MI Treehouse LLC

PO Box 261

Medina, WA 98039

[bill@summersdevelopment.com](mailto:bill@summersdevelopment.com)

(425)761-5460

Eric Ulfwengren, DME Construction

410 Bellevue Way SE, STE 205

Bellevue, WA 98004

[eric@dmeconstruction.com](mailto:eric@dmeconstruction.com)

(206) 510-3116

### RE: Seasonal Development Limitation Waiver Application

Mr. Summers and Mr. Ulfwengren:

The City of Mercer Island has completed its review of the application for a Seasonal Development Limitation Waiver (File #DEV23-007) for the property located at 5637 East Mercer Way (King County Tax Parcel #1924059312). Based on the following findings and conclusions, this application is **denied**:

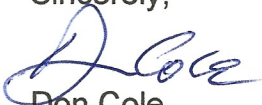
1. On December 15, 2021, the Hearing Examiner issued a decision approving a Critical Areas Reasonable Use Exception (File #CAO15-001) and Variance (File #VAR18-002) for the subject property;
2. Condition H of the Hearing Examiner decision for CAO15-001 and VAR18-002 states, "Land clearing, grading, filling, and foundation work shall be prohibited between October 1 and April 1.";
3. On August 11, 2023, the City approved a Building Permit (File #2204-107) for the subject property, pursuant to the Residential Conditions of Permit Approval;
4. On August 18, 2023, the City issued 2204-107 after the applicant for such signed the permit and the corresponding Residential Conditions of Permit Approval;
5. Planning and Zoning Requirements Condition G.1 contained within the Residential Conditions of Permit Approval for 2204-107 states, "Land clearing, grading, filling, and foundation work shall be prohibited between October 1 and April 1.";

6. On September 18, 2023, the City received an application for a Seasonal Development Limitation Waiver (File #DEV23-007) to allow land clearing, grading, filling, and foundation work authorized by 2204-107 to continue after October;
7. Mercer Island City Code (MICC) 19.15.030 sets a Seasonal Development Limitation Waiver as a Type II application;
8. The DEV23-007 application directly conflicts with conditions of approval for CAO15-001 and VAR18-002 as well as 2204-107;
9. Information used to support the application for DEV23-007 is conflicting with parallel supporting information submitted and appended (Exhibit# 50a) to the decision for CAO15-001 and VAR18-002; and
10. The subject property must adhere to the seasonal development limitation as required by CAO15-001 and VAR18-002 as well as 2204-107, which prohibits land clearing, grading, filling, and foundation work between October 1 and April 1.

Pursuant to MICC 19.15.030, the City does not produce formal notices of decision for Type II applications. Therefore, this letter constitutes the decision for application DEV23-007.

If you have questions, please contact me at [don.cole@mercergov.org](mailto:don.cole@mercergov.org) or at (206) 275-7701.

Sincerely,



Don Cole

Building Official

City of Mercer Island - Community Planning & Development

If you wish to appeal this decision, please refer to Mercer Island City Code 19.15.130. You will be required to submit a written appeal and file it with the City Clerk within 14 days from the issuance of this decision. Appeal forms are available from the Community Planning and Development Department, and payment of appeal fee is also required. Upon receipt of a timely complete written appeal and appeal fee, an appeal hearing will be scheduled by the City.