From:	Bio Park
To:	Jeff Thomas
Cc:	Robin Proebsting; Mary Swan
Subject:	RE: Treehouse Development 5600 block of East Mercer - ATTORNEY / CLIENT COMMUNICATION CONFIDENTIAL
Date:	Friday, November 6, 2020 1:18:41 PM

Privileged Attorney-Client Communication

Hi Jeff,

In your response, I'd point out that under the code (MICC 19.15.060(A)), the burden of demonstrating that the proposed development complies with the applicable regulations and decision criteria is entirely on the applicant. As a result, the applicant has not only the duty, but also the right to demonstrate code compliance to the best of their ability.

This means that the City cannot prevent the applicant from submitting their consultant's work. However, the City will have its consultants independently review the work and prepare conclusions, which will also be submitted to the Hearing Examiner. (Robin please confirm that I'm correctly describing the procedure.)

The City trusts that the Examiner is capable of identifying "clearly biased" work product, and that he will discount any measure of reliance on such work accordingly before deciding whether the application meets the criteria for a reasonable use exemption.

Finally, I'll leave it up to your discretion whether to point out that parties of interest can submit their own consultant studies to the Examiner.

I hope this is helpful. Let me know if you'd like to discuss.

Bio Park
City Attorney
City of Mercer Island
206-275-7652 | mercerisland.gov
Notice: Emails and attachments may be subject to disclosure pursuant to the Public Records Act (chapter 42.56 RCW).

From: Jeff Thomas <jeff.thomas@mercerisland.gov>
Sent: Wednesday, November 4, 2020 1:04 PM
To: Bio Park <Bio.Park@mercergov.org>
Cc: Robin Proebsting <robin.proebsting@mercergov.org>
Subject: FW: Treehouse Development 5600 block of East Mercer - ATTORNEY / CLIENT COMMUNICATION CONFIDENTIAL

Bio,

Please see the email below I received today.

Some sort of response will likely be needed from the City.

Thanks, Jeff

From: Gordon Ahalt <gjahalt@gmail.com>
Sent: Wednesday, November 4, 2020 11:22 AM
To: Jeff Thomas <jeff.thomas@mercerisland.gov>
Cc: anderson9200@comcast.net; davea@dahogan.com; 'Rick Duchaine' <rduchaine17@gmail.com>
Subject: Treehouse Development 5600 block of East Mercer

Jeff:

Two of my neighbors, Jane Dieckman and Rick Duchaine, on the south uphill side of the proposed Treehouse development site were contacted by someone representing Bill Summers of Treehouse requesting permission to access their backyards to inspect the steep slope adjoining the south side of the Treehouse site and said they needed 5 minutes to walk to hillside.

The Hearing Examiner this past summer remanded the Treehouse RUE to the City, the second time with the first remand being in 2017, with specific instructions that Treehouse address impacts to the adjoining lots to the south with the steep slopes, designated as Hazardous Slopes by the City, and the impacts on downhill properties related to potential increased water runoff. Neither of these issues were addressed by Treehouse in their 2017 and 2020 RUE applications.

The concern of all the surrounding property owners is that there has never been any baseline studies done regarding adverse impacts of the proposed development by Treehouse and therefore there will be no baseline to measure adverse impacts post development or projected assessments of potential impacts. The Treehouse technical consultants only made declaratory statements with no supporting information.

Based on the recent access requests made by Treehouse stating they need 5 minutes to study the subject steep slopes there is no reason we as adjacent homeowners have any confidence the Treehouse consultants will do a proper

and thorough study of the steep slopes or the downhill water runoff issues.

We have no objection to having the steep slopes on our property and the water runoff issues studied but believe this should be removed from the hands of Treehouse who we believe will not do an unbiased study.

We are requesting that the City engage independent consultants directly who will report and be accountable to the City rather than Treehouse using their past consultants who are clearly biased.

Please call me at your convenience at 206-605-5234 to discuss.

I tried calling you today but Evan Maxim's old phone number does not accept voice messages and it refers callers to Patrick Yamashita. There is no voice mail capability for you directly.

Thank you.

Gordon J. Ahalt