

9204 SE 57<sup>th</sup> Street  
Mercer Island, WA 98040  
Gordon & Marilee Ahalt  
July 13, 2017

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JUL 13 2017  
CITY OF MERCER ISLAND  
DEVELOPMENT SERVICE GROUP

Evan Maxim, Planning Manager  
Development Services  
City of Mercer Island  
9611 SE 36<sup>th</sup> Street  
Mercer Island, WA 98040

Re: SEPA Comment: CA-15-001 and SEP 15-001 – MI Treehouse RUE and SEPA Determination

Dear Mr. Maxim:

I am the property owner at 9204 SE 57<sup>th</sup> Street, Mercer Island, and my property adjoins the property that is the subject of the MI Treehouse applications referenced above. My property is located on the southside and uphill of the MI Treehouse parcel. This is my written protest with respect to the applications made by MI Treehouse.

I wish to reaffirm my letter of April 26, 2015 and incorporate by reference all written comments and arguments that I have previously submitted to you and the Hearing Examiner related to the above referenced applications by MI Treehouse.

I do not see any new information or studies contained in the MI Treehouse responses to the Hearing Examiner's or the City of Mercer Island's requests of MI Treehouse. MI Treehouse has failed to supply any supporting information regarding potential impacts to the adjacent property owners. The responses are unsupported claims with no factual information or data.

The issue is, what is reasonable use?

- 1) The applicant wants to build 100% within a Wetlands – not reasonable.
- 2) He wants to build within the setback of 2 critical streams, and he is building "in" the headwater of the southern critical stream as it originates from the location of the proposed development site – not reasonable.
- 3) There still has been no geophysical study of the hillside adjacent to the applicant's development lot. His Geotech consultant provides no support information or data to support his statement that there is no risk to the uphill property owners. It is an unsupported statement. – not reasonable.
- 4) There has been no measurement of water flow increases downstream since the City Agreement with the downstream property owners and no attempt to determine potential increased downstream flows resulting from this proposed development. – Not reasonable.
- 5) The applicant's building plans call for a "catchment wall" to protect the proposed new home from potential landslides yet he claims there is no risk of potential slides that will impact uphill properties. – not reasonable or logical.
- 6) The applicant paid \$32,000 for the lot and claims a potential loss of value of \$1,000,000, the theoretical value of the lot if it gets entitled. This is not an equivalent loss that

someone would face if they paid \$1.0 million for the lot today and still had to get entitlements which would be a “real” loss of value. The two are not the same. He is not being denied reasonable economic use of a \$32,000 lot. He is being denied a windfall gain by circumventing the environmental regulations to protect wetlands, two critical streams, and loss of property value by the surrounding homeowners as well as exposing the surrounding properties to risk of physical injury. – not reasonable.

If the MI Treehouse application is approved then there is no reason to have wetlands or critical stream designations as any denial of development applications in these areas would be determined to be denying a property owner reasonable use of their property regardless of their investment interest in their property and regardless detrimental impacts on adjacent property owners or local environmental impacts such as Lake Washington.

If the City approves the MI Treehouse applications referenced above then the City should fully expect property owners such as myself to apply for a lot line adjustment to create two lots on my 31,013sf lot as the value of two development lots far exceeds the value of my home. The Mercer Firs Homeowners Association would also be motivated to apply for a development permit for the common area lot owned by the Association (545050 TR CT) and located south of the MI Treehouse property on E. Mercer Way which contains a critical stream. There are many times more examples on Mercer Island like these two where the wetlands and critical stream designations will become meaningless and will put current property owners at risk of property damage and put the City at risk of litigation from damaged property owners. This is not the type of development the City should be encouraging or permitting.

Over the past 15+ years the City of Mercer Island has denied prior applications to develop the subject parcel owned by MI Treehouse and now because of a language change in the building code which added new language regarding Reasonable Use the City is potentially considering this as a buildable lot with no impact on designated wetlands, critical streams, and adjacent and downstream property owners and completely ignoring prior findings by the City that this is a hazardous and negatively impactful proposed use of the property.

I have requested in the past, and I request again, that all prior studies that have been submitted to the City in the past 20+ years be submitted as evidence in the above referenced applications by MI Treehouse on this property. The City should not permit a Developer to “shop” consultant reports over time until they find a more favorable or incomplete consultant report and the City should not be able to ignore prior determinations and findings of fact related to this property. To do otherwise is negligent.

I also support and agree with the letters submitted by Peter Anderson on July 5, 2017 and by Darrell S. Mitsunaga dated July 11, 2017.

The above applications by MI Treehouse should be denied.



Gordon J. Ahalt