

From: anderson9200@comcast.net
To: [Evan Maxim](#)
Subject: Examiner's ruling precludes the delay of drainage considerations
Date: Monday, January 27, 2020 2:25:36 PM

Dear Mr. Maxim,

As you are well aware, one of the two reasons why the hearing examiner in this case did not make a final ruling on the RUE application is that the Treehouse evidence was "not sufficient to determine if the project meets the reasonable use exception criteria to the degree that it fails to provide an analysis of 'potential adverse impacts to adjacent and down-current properties.'" At the time of this ruling, the admitted exhibits included the reports by Triad, Geo Group, Perrone, Sewall, and ESA. It is very apparent from the remand by the hearing examiner that he found that the existing evidence was not sufficient to make a decision on the potential adverse impacts to adjacent and down-stream properties. The clear message from the hearing examiner is that more work is needed with respect to determining the potential adverse impacts. It is likely that this remand was influenced at least in part by the arguments advanced by the neighbors to the examiner, such as the point made in my written argument to him that water on the large impervious surface of the driveway below the detention vault would obviously not flow into the vault.

One cannot comply with this portion of the remand without knowing what will happen to the waters on the Treehouse property. One cannot determine the adverse effect on the down-current properties without knowing whether the amount of water flowing into the stream to the down-current properties will increase. If it does increase, it would violate the terms of the recorded easement. Even aside from the terms of the easement, an increase of water would also increase erosion and the potential of flooding. Without a drainage plan, one does not know what will happen to the waters on much of the impervious driveway, what will happen to the waters behind the containment wall, whether the detention vault will act as a sink, and similar matters. All of these affect the amount of water flowing downstream. The ESA letter of December 17, 2019 confirms that many of the aspects relating to draining and stream hydrology are not known at the present time. The Shannon & Wilson letter of November 25, 2019 confirms that the erosion hazards have not been clearly addressed.

It should also be noted that what happens to the water on the Treehouse site also may affect the homeowners living at the top of the very steep slopes above the Treehouse property. The water in the Treehouse wetlands comes from the base of these steep slopes. What happens to the waters below could affect the slopes themselves.

The remand in effect calls for the evidence on potential adverse impacts to adjacent and down-current properties to be brought before the hearing examiner for consideration. In seeking to delay obtaining information, such as an analysis of drainage, the flow of water, and erosion, until after the RUE proceedings, the City is in effect telling the hearing examiner that it is withdrawing from him consideration of such issues highly relevant to the potential adverse impacts to adjacent and down-current properties and that the City itself will consider such information sometime after his decision. Simply stated, such a withdrawal would be highly inappropriate.

Respectfully submitted, Peter M. Anderson