

**From:** [anderson9200@comcast.net](mailto:anderson9200@comcast.net)  
**To:** [Evan Maxim](#)  
**Subject:** Your message to Dr. London  
**Date:** Friday, August 23, 2019 12:17:58 PM  
**Attachments:** [ESA Dec. 6, 2018.pdf](#)  
[Shannon July 2019 letter.pdf](#)

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Dear Mr. Maxim,

I have reviewed your response to Dr. London. With respect to the concerns expressed by Dave Anderson, you state that those concerns have been reviewed by ESA. In that regard, I am attaching a copy of the ESA letter of December 6, 2018. ESA in no way disagreed with the concerns expressed by Dave Anderson. The third paragraph of the ESA letter states in part:

**Although not shown on the plans, it is likely that a drainage system will need to be installed on the backside of retaining wall and adjacent to the building foundation to alleviate static pressure on these structures by transporting groundwater down-gradient. The retaining wall drainage system would likely impact wetland hydrology up-gradient of the wall by acting as a groundwater “sink.” Similarly, the foundation drainage system would impact wetland hydrology adjacent to the of the building (i.e., southwest). The extent and degree of impact to wetland hydrology is unknown at this time and ESA is not qualified to make this determination. ESA recommends that design plans detail the proposed drainage system for the project and the City consult a hydrogeomorphologist to determine likely impacts to wetland area.**

From this, it is clear that the plans will need to be modified to show a drainage system on the backside of the retaining wall and adjacent to the building foundation. According to ESA, this drainage system will likely act as a “sink” to remove water from the upslope area. The foundation drainage system would furthermore impact the wetlands adjacent to the building. This could well mean that areas upslope and adjacent to the building will not longer be wetlands and that the effect on the wetlands will be far greater than Treehouse contends. ESA in its letter states that ESA is “not qualified” to make a determination as to the extent and degree of the impact and recommends that “the City consult a hydrogeomorphologist to determine likely impacts to wetland area.” This the City has not done.

The fourth paragraph of the ESA letter includes the following:

**Mr. Anderson points out that the tank’s proximity to the wetland boundary and required excavation to install may have a negative impact on wetland hydrology. The area around the tank may need to be backfilled with coarse material and drainage may need to be provided to address buoyancy of the tank. Should continuous drainage of the area surrounding the tank be required, this project element may act as a “sink” similar to the drainage system discussed above. ESA recommends the applicant provide additional details on the stormwater detention tank to address the potential for indirect impacts to the adjacent wetland.**

From this, it is apparent that the area around the storm water detention tank may also act as a

“sink” and drain even more of the wetlands. The end result is that the drainage system could mean that far more of the wetlands could be adversely affected than shown on Treehouse’s present proposal. This determination is not something that should be postponed until a later time. In making a RUE ruling, the hearing examiner is entitled to know how much for the wetlands would be affected by the proposed project. If twice as much wetland area would be affected than Treehouse now contends, should the hearing examiner not know this? The final drainage proposal will also affect the flow of water through the properties of the downstream owners. The hearing examiner remanded the case in part to determine any possible adverse impact on the downstream owners. This is another reason why the final drainage plan should be known now. ESA has not opined on the effect on the downstream owners, and it is in fact impossible for them to do so until the drainage details are known. Also none of the consultants have addressed the point that Treehouse has presented no plan to deal with the effect on flow caused by the impervious surface of the driveway which is below the level of the tank. None of the consultants have commented on this obvious omission.

In your email, you state: **ESA reviewed the impacts to the wetland and stream and possible further erosion, including the concerns expressed by Mr. Dave Anderson.** How can your statement be true? In the attached letter, ESA states that it is “not qualified” to determine the “extent and degree of impact.” Instead, ESA recommended that that “the City consult a hydrogeomorphologist,” and the City has not done so.

How the water is handled on this project is also critical to an assessment of the geotechnical issues reviewed by Shannon & Wilson in its letter of July 12, 2019 (also attached). The letter comments on the GGNW report relating to “Potential Adverse Impacts to Adjacent and Downhill Properties.” The letter also states that one of the documents reviewed was the Core Design report which relates to drainage and water flow through the downstream properties. Dave Anderson’s letter does address the drainage and flow issue. For example, his letter states: **With wetland de-watering and the potential for significant bypass flows more detailed design and evaluation is required before the developer can unequivocally state that the flow rates and durations could be limited to the pre-development/forested levels.** This statement and its reasoning by Dave Anderson demonstrate major defects in the above GGNW report and the Core Design report. As Shannon & Wilson reviewed these reports, fundamental fairness and even-handed treatment on the part of the City requires the furnishing another part of the City’s files, namely the correspondence from Dave Anderson, a licensed civil engineer.

I have prepared my remarks very quickly as I know that this is your last day at work before being gone for a week. These remarks are in addition to points that I made to you in my recent emails. With more time, I may well have additional comments to make.

Peter Anderson

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**From:** Evan Maxim <evan.maxim@mercergov.org>  
**Sent:** Friday, August 23, 2019 8:50 AM  
**To:** Robert London <londonimplant@gmail.com>

**Cc:** Peter Anderson <anderson9200@comcast.net>; Dave Anderson <davea@dahogan.com>; Gordon Ahalt <gjahalt@gmail.com>; Rick Duchaine <rduchaine17@gmail.com>; vduchaine@comcast.net; Rob Graham <robertroyalgraham@gmail.com>; Robin Samms <robin@sammsgroup.com>

**Subject:** RE: Peer review report & withdrawal of determination of significance

Dear Robert London,

The City conducted two peer reviews on the last version of the proposed design. The first review was conducted by ESA, and the second was conducted by Shannon & Wilson. Both reviews were scoped to address the basis for the SEPA DS – essentially to determine if the revised design was sufficient to withdraw the DS and issue an MDNS.

Recall that if the City's regulations are currently sufficient to address any impacts resulting from the project, further mitigation SEPA review and conditions are not appropriate. It is only in the converse (i.e. there is a "gap" in the City's regulations such that they do not provide sufficient mitigation) that additional SEPA mitigation may be applied. This was the nature of the review we engaged ESA and Shannon & Wilson around.

ESA reviewed the impacts to the wetland and stream and possible further erosion, including the concerns expressed by Mr. Dave Anderson. Shannon & Wilson reviewed the impacts of the revised design to the geohazard areas on and off site.

The applicant has not addressed all of the review comments necessary to receive a recommendation of approval on the RUE; it is not clear to me if they intend to do so. I anticipate that we will issue an additional notice of application regarding a Mitigated Determination of NonSignificance (MDNS) on Monday, 8/26 with a 30-day comment period.

I will be out of the office next week, but I am happy to discuss further if needed after I return on 9/3.

Regards,

[Evan Maxim](#)

Director

City of Mercer Island - Community Planning & Development

206.275.7732

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<https://mercerisland.nextrequest.com/>.

Notice: Emails and attachments may be subject to disclosure pursuant to the Public Records Act (chapter 42.56 RCW).

I will be out of the office August 26 through August 30, returning on Tuesday, September 3 (after the Labor Day holiday).

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**From:** Robert London <[londonimplant@gmail.com](mailto:londonimplant@gmail.com)>

**Sent:** Tuesday, August 20, 2019 10:55 AM

**To:** Evan Maxim <[evan.maxim@mercergov.org](mailto:evan.maxim@mercergov.org)>

**Cc:** Peter Anderson <[anderson9200@comcast.net](mailto:anderson9200@comcast.net)>; Dave Anderson <[davea@dahogan.com](mailto:davea@dahogan.com)>; Gordon Ahalt <[gjahalt@gmail.com](mailto:gjahalt@gmail.com)>; Rick Duchaine <[rduchaine17@gmail.com](mailto:rduchaine17@gmail.com)>; [vduchaine@comcast.net](mailto:vduchaine@comcast.net); Rob Graham <[robertroyalgraham@gmail.com](mailto:robertroyalgraham@gmail.com)>; Robin Samms <[robin@sammsgroup.com](mailto:robin@sammsgroup.com)>

**Subject:** Re: Peer review report & withdrawal of determination of significance

Dear Mr. Maxim,

I have read the peer review report from Shannon and Wilson where they clearly express that they disagree with their peers in terms of the environmental impact and safety opinions rendered previously. It appears that the City failed to provide documents on drainage nor concerns expressed by myself and my downstream neighbors about the impact of additional water flow into the stream bed to Shannon and Wilson. This is significant, and does represent many subsequent erosion risks, including damage to property, excessive silting into critical Lake Washington habitat areas, and risk of damage directly to downstream homes in excess of what has already occurred to the Grahams. I remind you that in its settlement with our property predecessors, the City agreed to not add to any water flow to this stream bed. Since there is no system provided to prevent this from the loss of percolation and other impacts of the proposed wetlands development, the City would appear to be neglecting their obligation there as well.

I, having served many times in a peer-review role, commend the reviewers, Shannon and Wilson, for their objectivity. To properly do their job, they must receive all of the facts and concerns. Please provide Shannon and Wilson with all materials previously provided in comment periods, etc. relevant to water flow issues and ask for an opinion prior to acting on the significance of this project.

Sincerely,

Dr. Robert M. London  
5632 E Mercer Way  
Mercer Island, WA 98040  
206-579-0880 Bob Mobile  
[londonimplant@gmail.com](mailto:londonimplant@gmail.com)

On Aug 19, 2019, at 7:15 PM, [anderson9200@comcast.net](mailto:anderson9200@comcast.net) wrote:

Attached is the Shannon & Wilson report. Dave's comments on drainage were not included in the documents reviewed by them. In the second attached item, the City is proposing withdrawing its prior notice of significance. Peter

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**From:** Evan Maxim <[evan.maxim@mercergov.org](mailto:evan.maxim@mercergov.org)>

**Sent:** Monday, August 19, 2019 2:33 PM

**To:** [anderson9200@comcast.net](mailto:anderson9200@comcast.net)

**Subject:** MI Treehouse - voicemail

Dear Pete Anderson,

In response to your voicemail, please see the attached.

I delayed in responding to your voicemail, anticipating that I would be issuing the SEPA DS Withdrawal letter today.

Regards,

[Evan Maxim](#)

Director

City of Mercer Island - Community Planning & Development

206.275.7732

[mercergov.org/CPD](http://mercergov.org/CPD) | 

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<Mail Attachment.eml><Mail Attachment.eml>