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October 16, 2015

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SUBJECT: Modi Reasonable Use Permit
File No. CAE14001 / SEP14023
19400 136th Ave. NE
Woodinville, WA

On February 4, 2015 the Sno-King Watershed Council (SKWC) submitted comments on the Modi Short Plat development; these comments are included as a part of this comment letter by reference. The SKWC brought to the City's attention in February that because the wetland on the Modi property was proximal to and influenced by Little Bear Creek, that it must be classified as a Category 1 Wetland with a 150-foot buffer pursuant to WCC 21.24.320. The City subsequently retained an independent outside consultant to review the SKWC comments and the City's own consultant corroborated and affirmed the SKWC comments.

The City subsequently issued its Critical Areas Determination for the short plat proposal on June 1, 2015. In its decision last June, the City confirmed that Wetland A must be classified as a Category 1 wetland and its buffer is designated as Fish and Wildlife Habitat Conservation Areas. No construction or stormwater treatment facilities are allowed in this buffer that covers the entire lot area. The City also confirmed that this site contains geologically hazardous areas including landslide hazard and seismic hazard areas. Either one of these determinations are fatal flaws for development at this site.

The project proponent has now filed a revised notice of application; however the development's fatal flaws identified by the SKWC and affirmed by the City still remain; and the development remains inconsistent with Woodinville's Comprehensive Plan, Municipal Code, Shoreline Master Program, and applicable State and Federal regulations.

The applicant is requesting a "reasonable use permit" under Chapter 21.24 of the City's municipal code. However a reasonable use permit is neither appropriate nor applicable in this instance for this private property development.

A reasonable use permit is intended a partial code exemption for alterations in response to emergencies that threaten the public health safety or welfare¹; or for structural modification of, addition to, repair or replacement of structures, except single detached residences, in existence before March 31, 1993, which do not meet the building setback or buffer requirements for wetlands, streams or geological hazard areas if the modification, addition, replacement or related activity does not increase the existing footprint of the structure lying within the above-described building setback area, critical area or buffer² (Emphasis Added). Neither condition exists on the Modi property.

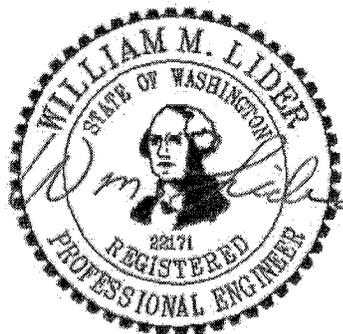
Exceptions to the code for a reasonable use permit may be allowed for a public agency or public utility³; however this condition also does not apply to the private Modi development.

It is unfortunate that the Modi property is undevelopable due to the fatal flaws associated with it, but due to the property's close proximity to Little Bear Creek and the likelihood that significant harm will occur as the result of any development on this property to an important salmonid stream, development cannot be permitted in this instance.

Therefore for all the foregoing reasons, the SKWC respectfully requests that the subject reasonable use permit be denied, with prejudice.

Thank you for your consideration of these comments.

Sincerely,



William Lider, PE, CESCL
Lider Engineering, PLLC
Board member, Sno-King Watershed Council

cc: SKWC Board

¹ WMC 21.24.060 Complete exemptions

² WMC 21.24.070 Partial exemptions

³ WMC 21.24.080 Exceptions