

Murray-Mulholland-Liberty-Washington Residents Association

To: Mayor Sheldon and City Council Members

From: Charles Worringham
Lisa Snapp
Deborah Jackson
Michael Jackson,
Officers of the MMLW Residents Association

Subject: Treehouse Condominiums

Date: June 30, 1994

Treehouse Condominiums: Overview

The 82 members of the Murray-Mulholland-Liberty-Washington Residents Association, who signed a petition last September in opposition to Treehouse Condominiums, request that you deny approval for this project. We believe that it is simply poor planning to allow large, modern buildings to be erected in the floodplain in a flood-prone area in the center of the block in the historic district. There are also numerous specific reasons to deny this petition, including direct code violations. The issues are outlined in the attached packages, which will take much less time to review than it appears! They fall into the following categories:

- Developer's Performance: The developer has shown through his actions that he is not willing to live up to the standards expected of developers in Ann Arbor.
- PUD Requirements: This project does not meet the requirements of a PUD, either conceptually or specifically.
- Stormwater Retention: There are both specific code violations and conceptual problems with this plan, as pointed out by City and County experts.

In addition, the City did not post the revised site plan at least a week prior to the Planning Commission's June 21, 1994 public hearing and action, in violation of City ordinance. See Chapter 57, 5:129.

Approval of this project would open the door for other developers to similarly ignore the planning process without expectation of sanctions, and would seriously damage the City's enforcement authority. You are being asked to grant:

- retroactive approval for significant changes made to a building in violation of the planning process;
- approval for two additional buildings that are very different in both size and appearance from the original PUD development plan;
- approval to build in a floodplain in one of the most sensitive areas of the Allen Creek drain, which is

June 30, 1994

Murray-Mulholland-Liberty-Washington Residents Association

- subject to significant surcharging even during a one-year storm;
- approval to build a stormwater facility in the middle of a major public utilities easement, in direct conflict with City specifications;
 - one foot and 2.5 feet of coverage at storm and sanitary lines, respectively, where the City specifications are 3.5 and 5 feet;
 - approval to build modern buildings in the historic district; and
 - approval to build in the middle of the block, with living rooms looking down upon back yards only 20 feet away and headlights shining into windows.

We believe that you have ample reason to deny this project on a myriad of levels. Thank you for your consideration of these issues.

June 30, 1994

224 Murray Avenue
Ann Arbor MI 48103

663-7410

October 2, 1993

Dear Members of City Council

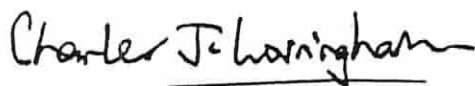
Please find enclosed a copy of a petition signed by residents in the immediate vicinity of the Treehouse Condominium Development, in Ann Arbor's Old West Side.

Residents of the area are increasingly dissatisfied with this development and all its problems with which they have had to live for five years. In particular they are concerned that the first building has not been constructed in accordance with the site plan, and urge that the developer be required to bring it into compliance with that plan. In addition, the residents urge that no additional building be allowed on this site.

There are 82 signatories of this petition, representing residents in nearly two-thirds of the homes immediately surrounding the development and one block west on Washington. Approximately 85% of all those who were approached are signatories. We wish to bring to the attention of the Planning Commission and the City Council that the great majority of the residents of this area are opposed to this project and that opposition is increased by the failure of the developers to comply with the approved plans.

I would request that the residents be kept informed about any developments concerning this project, and I am willing to act as a contact. A copy of the petition has been sent to the Mayor.

Sincerely,



Charles J. Worringham

September 1993

We, the residents of the Murray, Mulholland, Washington, Liberty area, urge the City Council and Planning Commission to act immediately to correct violations of the site plan and City planning and building ordinances for the Treehouse Condominium project and to halt any consideration of further construction on the site.

Date _____

9/27/93

9/27/93

9/27/93

Petition to Ann Arbor Planning Commission and City Council

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NAME	Signature	Address	Date
CHARLES WORRINGHAM	Charles J. Worringham	224 MURRAY AVE	9/26/93
MARIA MILLER	Maria D. Miller	224 MURRAY AVE	9/26/93
Justin D'Arms	J.D. D'Arms	240 Murray	9/26/93
ANDREW THOMAS	Andrew Thomas	242 Murray Ave	9/26/93
Kathryn Simpson	Kathryn Simpson	244 Murray	9/26/93
Tom & Sandy Marshall	Thomas H. Marshall	241 Murray Ave	9/26/93
Sandy Marshall	Sandy Marshall	241 Murray Ave	9/26/93
Robert Walker	Robert Walker	237 Murray Ave	9/26/93
Vicki Honeyman	Vicki Honeyman	235 Murray Ave	9.26.93
Kari Di Walker	Kari Di Walker	237 Murray Ave	9/26/93
TERRY LANDERS	Jimmy T. Landers	231 MURRAY AVE	9-26-93
DOUG ARMSTRONG	Doug Armstrong	227 Murray Ave	9-26-93
JIM BENEDET	Jim B. Benedet	219 MURRAY AVE	9-26-93
Kathleen Berger	Kathleen Berger	215 Murray Ave	9/26/93
David Bosse	David Bosse	215 Murray Ave	9/26/93

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NAME	Signature	Address	Date
Judy Spang Scheltema	Judy Spang Scheltema	330 Mulholland	9/26/93
Charles A. Scheltema	Charles A. Scheltema	330 Mulholland	9/26/93
Joe Hutton	Joe Hutton	318 Mulholland MACARTHUR Ellis	9-26-93
Casalt Andrew J	first A ² Mich	310 Mulholland 48103	9/26/93
John Scheerer	John Scheerer	338 Mulholland	9/26/93
Janet Scherer	Janet Scherer	338 Mulholland	9/26/93
Paula Hiller	Paula Hiller	342 Mulholland	9/26/93
Neil Kirsch	NEED KIRSCH	342 Mulholland	9/26/93
Christine E. Brommer	Christine E. Brommer	326 Mulholland	4/30/93 9/26/93
Diane A. Nafranowicz	Diane A. Nafranowicz	326 Mulholland	9-26-93
Katrina A. Gurm	Katrina A. Gurm	724 W. Washington	9-27-93
Mike Korzenowski	Mike Korzenowski	712 W. Washington	9-27-93
Steve Elder	Steven H. Elder	712 W. Washington #2	9-27-93

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NAME

Signature

Address

Date

Lisa Snapp Lisa M. Snapp 719 W. Washington 9/21/93

PAMELA MEISEL Pamela Meisel 707 W. Washington 9/22/93

LWDA SAMET Linda J. Samet 707 W. Washington 9/22/93

Chris Lindhy Chris Lindhy, 716 W. Washington 9/22/93

Jayne HAAS Jayne Haas 711 W. Washington 9/25/93

Marni Rachmiel Marni Rachmiel 724 W. Washington 9/25/93

Charles Lever Charles Lever 724 W. Washington 9/25/93

MIKE CORRA Mike Corra 711 W. Washington 9/25/93

Ed Hagopian Ed Hagopian 721 W. Washington 9/25/93

Anne Zirke Anne Zirke 721 W. Washington 9/26/93

Craig Perdue, Craig Perdue, 722 W. Washington 9/27/93

Regina South Regina South 722 W. Washington 9/27/93

John A. Moust John A. Moust 719 W. Washington 9-27-93

Maggie Lingman Maggie Lingman 805 W. Washington 9-27-93

Michael Michaud Michael Michaud 724 W. Washington St. 9-27-93

September 1993

NAME	Signature	Address	Date
EDWIN R. NIER	<i>[Signature]</i>	517 W. WASHINGTON	9-25-93
Kathy Hintz	<i>[Signature]</i>	523 W. Washington #1	9/25/93
Wesley Schert	<i>[Signature]</i>	523 W. Washington #2	9/25/93
John Collins	<i>[Signature]</i>	523 W. Washington #2	9/25/93
Jim Rees	<i>[Signature]</i>	603 W Washington	25 Sept 93
Fred Weiss	<i>[Signature]</i>	609 W. Washington	25 Sept 93
Rebecca Zurier	<i>[Signature]</i>	602 West Washington	"
Julie Newman	<i>[Signature]</i>	500 W. WASH #2	9-26-93
Ruth Wilson	<i>[Signature]</i>	504 W. WASHINGTON	9/26/93
Cristina Mastroianni	<i>[Signature]</i>	610 W. Washington	9/26/93

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NAME	Signature	Address	Date
Sean Allen	Sean D. Allen	211 Murray 662-7908	9/20/93
John Allen	John E. Allen	211 Murray 662-7908	9/26/93
Alison Swan	Alison Swan	209 Murray 662-2591	9/26/93
DAVID SWAN		209 Murray Ave. 662-2591	9/26/93
Michael R. Jackson	Michael R. Jackson	216 Murray Ave 996-5892	9/26/93
Deborah D. Jackson	Deborah D. Jackson	216 Murray Ave. 996-5892	9/26/93
Cater Webb	Cater Webb	222 Murray Ave 995-2232	9-27-93
Heidi Weston	Heidi Weston	222 Murray Ave 995-2232	9-27-93
Gynthia Smith	GYNTHIA C. SMITH	228 MURRAY AVE	9/27/93
Raymond Wetzel	Raymond Wetzel	228 Murray Avenue	9/27/93
CHERI DEROSIA	Cheri C. Derosia	232 MURRAY AVENUE	9/27/93
Susan B. Whitlock	Susan B. Whitlock	232 Murray Avenue	9/27/93
Jennifer Bauman	Jennifer Bauman	232 Murray Ave.	9/27/93
Anita Dorfman	Anita Dorfman	256 Murray Ave	9/27/93
Daniel Levin	Daniel Levin	236 Murray Ave	9/27/93
David R. / U	DAVID ROSENFELD	225 Murray Ave	-

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NAME	Signature	Address	Date
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Joyce Finkbeiner	Joyce Finkbeiner	311 Mulholland	9/23/93
CYNTHIA A. WHITLOCK	CYNTHIA A. WHITLOCK	315 MULHOLLAND	9/23/93
LORRI GONZALEZ	LORRI GONZALEZ	315 MULHOLLAND	9/23/93
Alan Argento	Alan Argento	323 Mulholland	9/23/93
Molly Rhadigan	Molly Rhadigan	303 Mulholland	9/23/93
Shirley Magnusson	Shirley Magnusson	315 Mulholland	9/23/93
Ed & Robin Pottloff	Ed & Robin Pottloff	337 Mulholland	9/23/93
LUCINDA STEVENS	LUCINDA STEVENS	343 Mulholland	9/23/93
MARY EMANUIL	MARY EMANUIL	341 Mulholland	9/23/93
James Walawski	James Walawski	327 Mulholland Ave.	9/24/93

Chapter 57 - Subdivision and
Land Use Control

- 5:127. Enforcement. No building permit shall be issued for any construction which has not received the site plan approval required by this Chapter or which is on a parcel created by a division which does not comply with the Subdivision Control Act of 1967 or this Chapter. No certificate of occupancy shall be issued for construction which is not in accordance with an approved building permit. No person shall use or occupy a building for which a plan, plat or division has been approved or is required to be approved pursuant to this Chapter unless a certificate of occupancy has been issued by the City. Violation of this section shall be punishable by a fine of up to \$500.
- 5:128. Security for Completion of Improvement. Approval of a preliminary plat shall be conditioned upon the execution of a subdivision agreement which secures the completion of improvements required on the plat. Where the timing or nature of improvements require such security, the approval of a site plan may be conditioned upon the execution of a development agreement. Unless designated as optional, all improvements on the site plan shall be completed prior to the issuance of a certificate of occupancy. However, where it would be impractical to delay occupancy prior to the completion of certain improvements, a certificate of occupancy can be issued upon the approval of the Planning Director and Building Director if an adequate cash deposit or letter of credit is presented to the City to secure the improvements.
- 5:129. Public Information and Hearings.
- (1) Prior to Planning Commission recommendation and City Council approval of any area plan, site plan, land division, or the tentative approval and final approval of a preliminary plat, both bodies shall hold a public hearing. Prior to the approval of a site plan for minor modifications or a final preliminary plat, the Planning Commission shall hold a public hearing.
 - (2) Area plans, site plans, preliminary plats and land divisions shall be displayed in a location in City Hall open to the public 24 hours per day, seven days each week, for at least one week prior to the City Council and Planning Commission public hearings.
 - (3) Notice of all public hearings shall be published in a local daily newspaper of general circulation at least one week prior to the public hearing.
 - (4) Upon submission of any area plan, site plan, land division, or preliminary plat for Planning Commission or City Council approval, a notice letter shall be mailed by the Planning Department to the person being assessed for the property, all persons being assessed for property within 300 feet, and, insofar as is possible, all occupants within 300 feet. The notice shall describe the requested approval, identify the property and state the date, time, and place of the public hearing.

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Treehouse Condominiums: Developer's Performance

The petitioner, Jack Schwarcz, has indicated that he took over this botched project recently, and is not responsible for the numerous problems that have occurred. However, the evidence shows that he was, indeed, involved when the problems arose. Also, regardless of his role in creating them, the current owner is responsible for and must correct any and all problems -- who else, if not the owner? We briefly describe just some of the problems below.

- The 1990 request for an administrative amendment to the site plan, made on behalf of Mr. Schwarcz and the builder, was fraught with problems.
 - The changes to the plan requested in the 1990 letter (minor and acceptable) do not match the changes shown on the site plan submitted at that time (major and unapprovable administratively). See August 26, 1993 letter from Karen Hart to Jack Schwarcz, and March 27, 1990 letter from Charles Manchurian to Terry Alexander. The March 7, 1990 letter from Terry Alexander to Martin Overhiser said, "The location and floor area remain the same," which was not true.
 - The current developer was involved in that request. See March 7, 1990 letter from Terry Alexander to Martin Overhiser.
 - The existing building was subsequently built significantly out of conformance with both the approved site plan and the administrative amendment. See August 26, 1993 letter from Karen Hart to Jack Schwarcz.
- Numerous problems with the site since construction was restarted indicate a lack of regard for City requirements and the neighborhood.
 - A Stop Work Order was issued last August because grading was commencing without a permit.
 - The bulldozer operator would have completely covered the storm drain inlet if a neighbor had not noticed what he was about to do.
 - A sanitary line was broken open and left exposed, and was not reported or repaired until another neighbor contacted the City.
 - Another neighbor's retaining wall was damaged; she was not notified nor offered compensation.
 - Electricity was apparently being pirated as the site had no official hook-up; this was confirmed by Detroit Edison.
 - Construction trash has been left to blow around the site on numerous occasions, rather than being deposited in dumpsters.

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- Construction, when it was occurring, was at a very slow pace with skeleton crews.
- Many exterior lights have been left on for weeks at a time; there are 22 exterior lights on the existing building alone.
- Mr. Schwarcz has never seriously attempted to discuss this project with the neighborhood; an overture by the neighborhood association in March was met with a series of ground rules. The association accepted all the conditions but one -- that it be willing to negotiate a resolution to the stormwater problems -- since it felt that technical issues are not within the neighborhood's authority to negotiate. Mr Schwarcz chose, therefore, to not set up a meeting.



Planning Department

CITY OF ANN ARBOR, MICHIGAN
100 North Fifth Avenue, P.O. Box 8647, Ann Arbor, Michigan 48107
Phone (313) 994-2800

August 26, 1993

Dr. Jack Schwarcz
26140 Raine
Oak Park, Michigan 48237

Dear Dr. Schwarcz:

In March 1990, an administrative amendment was approved by the City Planning Department for the Treehouse Condominiums PUD. The original PUD was approved by City Council in July 1988. We recently became aware that there may be some discrepancies between what the developer understood to be approved and what the City thought it was approving in 1990. This has resulted in the construction of a building that is larger than indicated on the plans.

The developer's letter requesting the 1990 amendment stated that "...the location and floor area remain the same, with setbacks and building spacing unchanged." The City's administrative amendment approval letter stated that building locations could be adjusted, although it did not say specifically where the adjustment would occur, and made no mention of increasing the floor area of the units. The plans are incongruous with the approval letter, and it is questionable whether building expansion or relocation can be accomplished administratively under the provisions of the PUD ordinance.

Only Building #2 has been constructed to date, and its square footage has been increased beyond that which was approved both on the original site plan and on the administrative amendment. A number of problems have developed at the site as a result of the increased building size, and include the following:

1. The distance between the buildings no longer meets the spacing requirements approved on the original PUD.
2. Building #2 now encroaches two feet into the required setback. The buildings which are shown on the amended PUD do not exceed the setback. However, when the second level two-foot overhangs (which include habitable area) are included, the setback is exceeded, since habitable area is not allowed in required setbacks.

3. The area originally devoted to trench drains at the back of each structure has been severely reduced. This was neither specifically requested nor approved under the administrative amendment.
4. The total impervious surface has been increased as a result of expanded ground floor coverage and driveway. This creates the need for increased volume in the proposed surcharge area.
5. The building expansion caused the need for the wider driveway, which in turn impacted at least two landmark trees.

To bring the PUD into compliance, it will be necessary to process a revised PUD that resolves the aforementioned issues. Both Planning Commission and City Council review and approval will be required, since these issues cannot be handled administratively. We have identified the following approaches for addressing these issues:

1. Buildings #1 and #3 must be designed to maintain the building separation of 18.9 feet, as approved on the original PUD. This may result in reduction of the square footage of the buildings. An alternative is to request a lesser building separation via the revised PUD.
2. The City Planning Department recognizes that there may have been some miscommunication between the developer and this department when the amendment was processed in 1990, since a larger building has been constructed than appears to have been approved. As such, we are willing to consider recommending that the setbacks for Building #2, which exceed the approved setbacks, be adjusted under the revised PUD.
3. Trench drains must be provided as approved on the original PUD, or a new hydrological study must be prepared justifying the reduction.
4. To accommodate the increased storm water run-off caused by the additional impervious surface, the calculations must be revised and additional volume provided in the proposed surcharge area. If the impervious surface is reduced (by reducing the building sizes and driveway width) to the previously approved level, revisions would not be necessary.
5. To accommodate the landmark trees that would be impacted, either the drive width should be reduced and tree protection shown, or a replacement plan for any landmark trees to be removed should be provided.

In addition, all of the issues outlined in the City Council resolution of July 19, 1993 must be complied with. Since it has been determined that a revised PUD must be reviewed by Planning Commission and City Council, the construction schedule that was

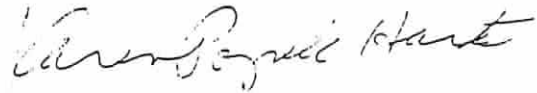
Dr. Jack Schwarcz
August 26, 1993
Page 3

recently approved by City Council in the site development agreement should also be amended, to take into account the additional time needed to process the revised PUD. I would suggest that your first step be to request a longer PUD extension from City Council (perhaps nine months or a year beyond what was just granted).

Please be advised that if building elevations are amended as a result of changes proposed by the revised PUD, Historic District Commission approval also may be required.

Do not hesitate to contact me at 994-2800 if you have any questions or if I can provide further guidance. If you let me know by Friday, August 27 that you wish to request the extension, I can schedule it for the September 7 Council meeting.

Sincerely



Karen Popek Hart, AICP
Planning Director

ALB/lgh

c: City Administrator
City Attorney
Building Director
Public Services Director
File

file



CITY OF ANN ARBOR, MICHIGAN

100 North Fifth Avenue, P.O. Box 8647, Ann Arbor, Michigan 48107
Phone (313) 994-2800

Planning Department

March 27, 1990

Mr. Terry Alexander
Alexander Allen Ezati Architects
4825 Washtenaw Avenue
Ann Arbor, Michigan 48104

Dear Mr. Alexander:

Your request to modify the Treehouse Condominiums PUD site plan located on the west side of Mulholland Drive to adjust the location of the buildings, increase the building height to a maximum of 33 feet, adjust the driveway layout, remove one 22-inch DBH walnut tree and replace it with five four-inch DBH walnuts trees has been administratively approved and amends the PUD site plan that was approved on July 18, 1988. *no approval for increase in square footage or changes to exterior appearance*

The \$3,563 cash contribution for parks improvements as specified in the site development agreement will need to be paid to the Parks and Recreation Department prior to issuance of building permits. All restrictions and requirements of the July 18, 1988 approved PUD site plan remain in effect. *☆*

A copy of this administrative approval is on file with the Building Department and they may now issue permits that conform to this revised plan. If you have any questions, please contact the Building or Planning Departments.

Very truly yours,

Charles R. Mancherian

Charles R. Mancherian
Assistant Planning Director

GC/jsj

Enclosures

cc: Building Department
File No. 929209.03 *✓*

THE OFFICE OF ALEXANDER AND EZATI
THE PRACTICE OF ARCHITECTURE AND INTERIOR DESIGN

4825 WASHTENAW AVENUE, ANN ARBOR, MICHIGAN 48104, 313-572-0870

March 07, 1990

Mr. Martin Overhiser, Director
Planning Department
City of Ann Arbor
100 N. Fifth Ave.
Ann Arbor, Michigan 48104

Re: Treehouse Condominiums - Administrative Approval

Dear Mr. Overhiser:

This letter and the enclosed drawings are submitted to your department to accomplish the Administrative Approval Process for changes to the above mentioned project.

The original Site Plan Approval documents were prepared by Hobbs and Black Associates Inc. and the owners were listed as Mulholland Properties Ltd. for parcel 1 or the existing Pumphouse Condominiums and Mr. David E. Shipman for parcel 2 or the proposed Treehouse Condominiums. Parcel 2 has subsequently been sold to Mr. Jack Schwarcz of Heritage Management and is being sold again to Mr. R. Chrzanowski of Appleridge Construction. Mr. Schwarcz is a land contract holder and Appleridge has a purchase agreement for full ownership. Our firm represents both Mr. Schwarcz and Mr. Chrzanowski.

Changes to the original Site Plan include:

1. Revised building plans as submitted - the location and floor area remain the same with setbacks and building spacing unchanged.
2. The building height is revised from 30'-0" to 34'-6". The original Site Plan documents indicate a 30'-0" height in dimensioning but the buildings scale higher. A three story structure with a pitched roof can not be built to a 30'-0" height.
3. The driveway configuration is revised as shown.
4. The new plan requires removal of an existing 22" walnut. We will replace it with five 4" caliper trees of the same species which exceeds the requirements of chapter 57.
5. The water main plan has been altered at the request of Mr. Craig Hupy of the Utilities department. The new 6" main which extends South of the proposed fire hydrant has been eliminated with new taps accessing the new 6" East-West main.

Appleridge Construction will be responsible for installing the new 6" water main on both parcels 1 and 2 in accordance with the approved Site Plan. The approved Site Plan also indicates construction of carports for the Pumphouse Condominiums to the East of that structure which will be constructed over the proposed new water main and in the required 40 ft. city easement. Those carports will be constructed by the owner of the Pumphouse Condominiums. If the carports are to be constructed in this location it should be made clear to all parties involved that no carport construction should be permitted until the new water main is in place. The owner of parcel 2 or the Treehouse Condominiums will assume no responsibility for the carports or their effect on the new water main.

If you have further questions please contact our office at your convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read "Terry L. Alexander", written in a cursive style.

Terry L. Alexander

Treehouse Condominiums: PUD Requirements

We believe that there is sufficient reason, on the basis of the PUD ordinances alone, to deny this project. These ordinances were developed to provide flexibility for the City while protecting and safeguarding the site and surrounding areas, and a PUD approval is therefore granted for a very specific use and design. For this reason, deviations from the PUD requirements are not normally allowed, and any allowance here would not only create a very unlevel playing field but also set a bad precedent regarding the City's will to enforce its own ordinances. Holding this project to the PUD requirements is not mere legalistic nit-picking, but is the only right and fair thing to do.

- City ordinance states that a PUD must have a beneficial effect for the City.
 - This criterion must be met during all phases of PUD approval, not just the preliminary phase. See Chapter 55, 5:80 (3)(a) and (8)(j).
 - No compelling beneficial effect exists here.
 - Detrimental effects clearly do exist.
 - PUD zoning requires extensive documentation, models, community impact analyses, and so forth, to support the case of "beneficial effect." To our knowledge, these items have never been submitted. See Chapter 55, 5:80 (5), and January 3, 1994 letter from Andrea Brown to Jerold Lax.
- A PUD approval is granted for a very specific use and design, so that, "What the petitioner shows is what the City gets." See "Planned Unit Developments in Ann Arbor, Michigan," June 5, 1981.
- The current site plan is inconsistent with the original PUD approval. Development violations have been detailed previously and are supported by City records. See August 26, 1993 letter from Karen Hart to Jack Schwarcz, and excerpt from August 3, 1993 letter from Lisa Snapp to Planning Commission.
 - There has been a 40% increase in building footprint.
 - The bottom floor, rather than being built on stilts, has been enclosed.
 - Overhangs have been added that extend into the setbacks.
 - The existing building is very modern in appearance; historic appearance was specifically stated as the means by which item (h) of the PUD Standards for Approval would be met: "The design of the Treehouse Structures will be consistent with the architecture of the surrounding Old West Side

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neighborhood." Note that current Historic District Commission approval is based on the fact that only structures visible from the street are under its purview; while this structure is not visible from the street, it IS visible from the 40-odd historic houses surrounding it.

- These changes are not allowed through any method other than Planning Commission and City Council approvals, which were neither sought nor obtained. See Chapter 55, 5:80(10)(a).
- The ordinance mandates that rezoning was to have occurred upon discovery of site/building violations (one year ago). See Chapter 55, 5:80(10)(b).
 - The City Attorney's Office advised the Planning Department last August that rezoning was to be initiated; this has not occurred. See August 24, 1993 memo from Kristen Larcom to Karen Hart and Jack Donaldson.
 - This has allowed the developer to come before you with a site plan at this point.
- The existing building cannot receive a Certificate of Occupancy because it was built out of conformance with the approved plan. See Chapter 57, 5:127.
- The elapsing of three years since initial approval mandate that the project be reviewed as if it were a new site plan, not a revision, if building permits are to be obtained. See Chapter 57, 5:122(7)
 - The City Attorney's office advised the Planning Department last August that a new review was required, rather than a simple revision. See August 24, 1993 memo from Kristen Larcom to Karen Hart and Jack Donaldson.
 - New site plan approval for a PUD requires documentation " . . . to assist the City in visualizing and understanding the proposal" See chapter 55, 5:80(8), and 5:80(5).
- The developer's request is therefore for RETROACTIVE approval for improper changes made on the existing building.

CHAPTER 55 - PLANNED UNIT DEVELOPMENT (PUD) ORDINANCE

5:23(27) PUD - Planned Unit Development District.

The purpose of this district is to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage provision of useful open space; provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the City; and encourage the use, reuse and improvement of existing sites and buildings when the uniform regulations contained in other zoning districts do not provide adequate protections and safeguards for the site or surrounding area.

This district is intended to accommodate developments with mixed or varied uses, sites with unusual topography or unique settings within the community, or on land which exhibits difficult or costly development problems and shall not be allowed where this zoning classification is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes above.

5:21(27) Permitted Principal Uses.

All residential uses; all business, service and professional offices; all light manufacturing, research uses, and all commercial uses of any combination of uses may be permitted in a planned unit development.

5:22(27) Permitted Accessory Uses.

Any accessory use permitted in the residential, commercial, office, industrial and/or research classifications in accordance with the regulations stated in Section 5:80 of this Chapter.

5:80 PUD Planned Unit Development Regulations and Standards for Approval. The following provisions shall apply to all PUD zoning classifications:

- (1) **Ownership.** The entire parcel for which application is made must be under one ownership or the application must be made with the written authorization of all property owners.
- (2) **Establishment, Amendment Procedure.** A PUD zoning classification shall be established, amended or removed pursuant to the procedure set forth in Sections 5:107 and 5:108 of this Chapter and the additional procedures set forth in this Section, provided, however, that a PUD zoning classification may be initiated only by petitioner.
- (3) **Standards for Approval.** Based upon the following standards, the Planning Commission may recommend denial or approval, and City Council may deny or approve the proposed Planned Unit Development.
 - (a) The uses proposed will have a beneficial effect, in terms of public health, safety, welfare or convenience or any combination thereof, on present and potential surrounding land uses. The uses proposed will not adversely affect the public

utility and circulation systems, surrounding properties, or the environment. This beneficial effect for the City (not the developer) shall be one which could not be achieved under any other single zoning classification.

- (b) The uses proposed shall be consistent with the land use plans adopted by the City.
 - (c) The zoning is warranted by the design and amenities incorporated in the development proposal.
 - (d) Usable open space shall be provided at least equal to the total of the minimum usable open space which would be required for each of the component uses of the development. Council may, if deemed appropriate, require for Planned Unit Developments more or less or no usable open space than that required by this Code.
 - (e) Off-street parking sufficient to meet the minimum required by Chapter 59. City Council may, if deemed appropriate, require for planned unit developments more or less parking than that required by this Code.
 - (f) Landscaping shall be provided so as to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property to meet the minimum requirements of Chapter 62. City Council may, if deemed appropriate, require for Planned Unit Developments more or less landscaping than that required by this Code.
 - (g) Vehicular and pedestrian circulation, allowing safe, convenient, uncongested, and well-defined circulation within and to the district shall be provided.
 - (h) Major natural, historical and architectural features of the district shall be provided.
 - (i) Residential density shall be consistent with the plans and policies of the City. City Council may allow greater density or modify height and placement standards if in the proposed project 20% or more of the dwelling units are made available to persons and families who fit the low-income definitions of HUD. Provisions to assure the affordability of such housing shall be included in a development agreement.
- (4) Approval Procedure. The PUD zoning approval shall involve two phases. The preliminary phase shall involve a review of the conceptual PUD development plan to determine its suitability for inclusion in the land use and zoning plans of the City and adoption by City Council as part of the Zoning Ordinance. The final phase shall require detailed site plans for any part of the conceptual PUD development plan prior to the issuance of building permits.
- (5) Material to be Submitted. The applicant for any PUD zoning classification shall submit the following technical and/or graphic materials together with the application for a PUD classification preliminary phase approval:
- (a) A complete amendment petition as required by this Chapter, together with a PUD development plan showing all uses and allotted spaces, gross site area, street and

vehicular access areas, number of each variety of habitable space, total number of dwelling units, floor area per habitable space, and total open space.

- (b) The PUD development plan shall indicate the entire contiguous holdings of the petitioner or owner who wishes to develop the entire parcel or any part thereof, and shall include the area and use of land adjacent to the parcel to be developed, which plan shall exhibit any unusual problems of topography, utility service, land usage or land ownership; said plan shall also exhibit all existing and proposed structures, existing and proposed streets, open spaces and other features as required by ordinance or the Land Development Regulations.
- (c) The applicant shall present material as to the development's objectives and purposes to be served; economic feasibility; conformity to plans and policies of the City; market needs; impact on public schools, utilities, and circulation facilities; impact on natural resources; impact on the general area and adjacent property; estimated cost; and a staging plan showing the general time schedule of and expected completion dates of the various elements of the plan.
- (d) A work study model indicating the three-dimensional character of the proposal shall be presented if there is a proposed addition to the floor area of an existing building which results in an increase in land coverage or building height, or if any new buildings are proposed to be constructed. All applications shall include photographs of all sides of all existing buildings. Any additional graphics or written materials requested by Planning Commission or City Council to assist the City in visualizing and understanding the proposal shall be submitted.

(6) PUD Development Plan Review.

- (a) The Commission shall hold a hearing at which the petitioner shall present the proposed PUD development plan and the Commission shall provide the petitioner with its comments within 30 days after holding such a hearing. No fees shall be charged for said preliminary hearing.
- (b) The petitioner shall next submit to the Clerk sufficient copies of the PUD development plan together with appropriate review fees. Copies of the plan as submitted shall be distributed promptly by the Clerk to the appropriate City agencies for review to determine if the development concept can be accommodated by the existing public utility, street, and general City service facilities, or if any additions to, or extension of facilities are necessary for the project.
- (c) The Planning Director shall notify the petitioner of any questions raised by the City agencies during said review and shall submit like information to the Planning Commission for its consideration, along with a report which evaluates the planning aspects of the project and its impact on the present and future development of that part of the City in which it is located.
- (d) The Commission shall, after holding public hearings on said PUD development plan and reviewing said reports, make its recommendation to Council on said plan within 60 days of its date of filing unless said time is agreed to be extended by the petitioner in writing; provided that the Commission may extend this time for

periods not to exceed 30 days each if such extensions are necessary for adequate review.

- (e) If the PUD development plan is rejected by the Commission, its reasons therefore shall be specified in writing and approved by the Commission.
 - (f) The Commission's recommendations and all related reports shall be submitted to Council for its consideration. Council shall, after holding a public hearing on the PUD development plan and petition, take final action on said plan and petition within 90 days of the date it receives a report from the Planning Commission or such reasonable extension of time as may be necessary for adequate review.
 - (g) Any conditions of approval required by City Council shall be satisfied by the petitioner or owner prior to subsequent final phase site plan approval and prior to the issuance of any building permits. The City Clerk shall keep a special record of all approved PUD development plans and approval conditions.
- (7) Effect of Preliminary Phase Approval of PUD Development Plans. Approval of the PUD development plan by City Council shall rezone the property to a "PUD" zoning classification for uses as shown on the PUD development plan and shall confer upon the owner the right to proceed through the subsequent planning phase in accordance with regulations and ordinances in effect at the time of Council's approval for a period not to exceed three years from date of approval, unless subsequent regulations or ordinances are specifically made applicable to developments which have been so approved. If final phase site plans have not been submitted for approval before the termination of said three-year period, said subsequent site planning must conform to the regulations, ordinances and laws in effect at the time said site plan is submitted.
- (8) Final Phase PUD Site Plan Approval.
- (a) The petitioner shall submit to the Clerk sufficient copies of the PUD site plan for all or any part of the development, in accordance with the uses and concepts as shown on the approved PUD development plan, together with appropriate review fees. The site plan for each stage shall include final detailed information as required in Section 5:80(5)(a) and (b).
 - (b) Copies of this PUD site plan as submitted shall be distributed promptly by the Clerk to the appropriate City agencies for review and comment regarding the legal requirements of the City.
 - (c) A detailed scale model indicating the three-dimensional character of the proposal will be required if there is a proposed addition to the floor area of an existing building which results in an increase in land coverage or building height, or if any new buildings are proposed to be constructed. All applications shall include photographs of all sides of all existing buildings. Any additional graphics or written materials requested by Planning Commission or City Council to assist the City in visualizing and understanding the proposal shall be submitted.
 - (d) A detailed listing of existing and/or proposed exterior materials shall be provided and will become part of the PUD site plan.

- (e) The Planning Director shall notify the petitioner of any questions raised by the City agencies during said review and shall submit like information to the Planning Commission for its consideration.
 - (f) The Commission shall, after holding public hearings on said PUD site plan, make its recommendation to Council within 60 days of its date of filing unless said time is agreed to be extended by the petitioner in writing; provided that the Commission may extend such time for periods not to exceed 30 days each if such extensions are necessary for adequate review.
 - (g) If the PUD site plan is rejected by the Commission, its reasons therefore shall be specified in writing and approved by the Commission.
 - (h) Commission's recommendations and all related reports shall be submitted to Council for its consideration.
 - (i) The Council shall, after holding public hearings on said PUD site plan, take final action within 30 days of the date of the recommendations by the Commission unless said time is agreed to be extended by the petitioner in writing; provided, that the Council may extend such time for periods not to exceed 30 days each if such extensions are necessary for adequate review.
 - (j) If the site plan is rejected by the Council, its reasons shall be based upon the standards of review listed above, specified in writing, and approved by Council.
 - (k) Approval of the final PUD site plan shall entitle the owner to apply for building permits.
- (9) Time for Completion of Development. The proposed Planned Unit Development District and all proposed buildings, parking spaces, landscaping, usable open space, and amenities must be started within three years of the establishment of the district and work must be continued in a reasonable diligent manner and completed within five years of the establishment of the district. Said five-year period may be extended if applied for by the petitioner and granted by Council in writing following public notice and public hearings as defined in Section 5:107 of this Chapter. Failure on the part of the owner to secure the written extension shall result in stoppage of all construction.
- (10) Deviations from Approved PUD Site Plan.
- (a) Minor changes to a previously-approved PUD site plan may be approved without the necessity of Planning Commission or City Council action thereon if the heads of the Planning, Transportation, Fire, Utilities, and Building Departments certify in writing that the proposed revision constitutes a minor alteration and does not alter the basic design nor any specific conditions of the plan as agreed upon by Commission and Council. The Planning Director shall record all such changes on the original PUD site plan and shall advise Commission and Council of all said minor revisions within 15 days of said administrative approval. Minor alterations or revisions under this section shall be limited to:
 - 1. Addition or relocation of all fire escapes.

2. Shifting of building heights and elevations, providing such shifting does not exceed ten percent of the previously-approved dimension and providing such shifting does not significantly alter the conceptual integrity of the plan.
 3. Construction of additional or alteration of approved sidewalks, provided that the full intent of pedestrian movement through and around the site is not inhibited thereby.
 4. Shifting of, additions to, or changes in species of landscape materials, provided that such change does not reduce the minimum landscape requirements.
 5. Relocation of refuse collection stations.
 6. Internal rearrangement of parking lots and curb cut locations provided such functional rearrangement does not reduce the total number of parking spaces required and further provided that the minimum landscape requirements are maintained and further provided that such rearrangement does not inhibit good traffic flow or circulation.
 7. Any decrease in building size or changes in bedroom counts per dwelling unit in no more than ten percent of the total number of units.
 8. Construction and location of bus stop stations.
 9. Installation of recreational or maintenance facilities that do not require erection of a structure intended for human use or occupancy.
- (b) A PUD final phase PUD site plan approval shall be assigned only after Council approval of the preliminary phase PUD development plan and rezoning of the property as required by this Chapter. Any deviation from the approved PUD site plan, except as authorized in Section (10)(a) above, shall be considered a violation of this Chapter in accordance with Section 5:105 and subject to the penalties stated in Section 5:106. Further, any such deviation shall result in notice of the owner that rezoning procedures will be initiated by City Council.

1/13/93
KPH/lgh



Planning Department

CITY OF ANN ARBOR, MICHIGAN

100 N. Fifth Avenue, P.O. Box 8647, Ann Arbor, Michigan 48107

Phone (313) 994-2800 FAX (313) 994-2798

January 3, 1994

Mr. Gerald Lax
Bodman, Longley and Dahling
110 Miller, Suite 300
Ann Arbor, Michigan 48104

Subject: Treehouse Condominiums Revised Planned Unit Development (PUD)

Dear Mr. Lax:

The revised PUD for the above-mentioned project has been distributed to various City departments for review, and I have attached their comments. Please distribute these to the appropriate design professionals so that revisions can be made accordingly.

In addition, I offer the following comments from the Planning Department.

(1) It is not clear from the current submission what is being done differently from the original submission (or the amended PUD). Please submit a narrative specifying which items have changed and why. Please identify the impacts of the proposed changes and clarify why the proposed revisions are an improvement.

(2) Architectural renderings of the building elevations must be submitted, including a list of building materials.

(3) Please provide a cross section which includes the proposed structures and their relationship to surrounding residences.

(4) Provide a comparison chart on the site plan which identifies all setbacks (from the cantilevers), building height, floor area (including habitable space in the cantilevered portion of the buildings).

(5) The Site Development Agreement must be amended to include a revised construction schedule. We discussed the specifics of these changes several weeks ago.

(6) The PUD has been extended until July 19, 1994, contingent upon several conditions. We urge you to request an additional extension from City Council as soon as possible. As you are aware, the PUD approval process through Planning Commission and City Council may take several months. This, coupled with timing required to secure various permits, could bring you quite close to the current extension date.

Gerald Lax
January 3, 1994
Page Two

The PUD development plan must be revised to include my comments as well as those of other reviewing departments.

The revised plans and other supportive documentation must be submitted to the Planning Department by no later than January 7, 1994 at noon. Please encourage your design professionals to contact me at 994-2800, or other department reviewers if there are any questions about what is expected.

Sincerely,

A handwritten signature in cursive script that reads "Andrea L. Brown".

Andrea L. Brown, AICP
City Planner

c: Karen Hart, Planning Director

Enclosures

PLANNED UNIT DEVELOPMENTS IN ANN ARBOR, MICHIGAN

Public Corporation Law Section - State Bar of Michigan

On March 1, 1979, the new Zoning Enabling Acts became effective. The extensive amendments to the three Zoning Enabling Acts provided statutory authority for many of the zoning practices and techniques which had been developed and were in use by several local units of government. One of the techniques that was spelled out in the new enabling acts is the "Planned Unit Development".

Unlike conventional zoning districts in which the regulations must be identical for all land within a district, the PUD enabling provisions allow for flexible regulations relating to use of land and buildings, the placement of structures and the bulk of the structures. Several communities within the State did have various forms of planned unit development districts and regulations within their zoning ordinances prior to the passage of the new acts. Ann Arbor is one of those communities having added a planned unit development section to its zoning ordinance in 1972.

From 1973 through 1981, 16 planned unit development districts have been established within the City of Ann Arbor. Eight of these 16 districts were established prior to the effective date of the new act. The intent section of the Ann Arbor ordinance is almost identical to the provisions of the act. The ordinance does not require that there be a mixture of uses. Mixed uses were required up until 1978. That amendment was made in order to encourage more developers to use the PUD ordinance. The City also liberalized the provisions of its ordinance by providing for a preliminary phase approval which grants the zoning district uses to the property, but does not allow the development of any buildings on the site until a final detailed phase PUD site plan is submitted and approved of by ordinance.

Many of Ann Arbor's PUD districts have been established because the City's plans and policies have suggested that PUD zoning might be appropriate for certain types of land uses in certain locations. The City has generally resisted granting non-residential type zoning districts to properties that are proposing non-residential uses in or near established residential areas. There have, however, been many proposed uses that appear to be compatible with the surrounding area if they are developed exactly as presented to the City. The difficulty with conventional zoning is that once a district is assigned to a property that may permit a number of uses, the proposed use is not developed, but another undesirable permitted use is developed in its place. With the PUD district, the proposed use or uses may be permitted and no other uses allowed, so what the petitioner shows is what the City gets.

The PUD district has been used to regulate the size, shape and design of buildings so they are made compatible with surrounding buildings. With the PUD districts, different layers of use have been approved of when multi-storied buildings are designated, retail use on one floor and office use or residential use on other floors. The PUD district provisions do grant to the developer some flexibility, but also allow the community to exercise detailed control over the land use, placement of structures, and the bulk or density of structures and floor area.

Attached is a table listing all of the PUD districts which have been established within the City of Ann Arbor and a copy of the Ann Arbor PUD section of the Zoning Ordinance.

Martin W. Overhiser
June 5, 1981

x

Lisa M. Snapp
719 W. Washington
Ann Arbor, MI 48103

Planning Commission
City of Ann Arbor
100 N. Fifth Avenue
Ann Arbor, MI 48104

August 3, 1993

Dear Planning Commission Members:

At the July 19, 1993 City Council meeting, the PUD zoning for the Treehouse Condominiums project was extended for one year. On behalf of the Murray-Mulholland neighborhood, I would like to bring to your attention several issues regarding this project. We believe that in several critical ways this project is out of conformance with the ordinances and the approved site plan, and that adequate attention has not been and is not being paid to this project. We request that you delay issuance of building permits, raise these issues as discussion points at your next meeting and, if necessary, consult with the City Attorney's office regarding the appropriate interpretation of the ordinances. Finally, we ask that, if you deem this project to be out of compliance with the ordinances, you ensure that appropriate compensating and corrective measures be taken and adequate oversight be given, including enforcement measures as required by the ordinances. We believe that, as citizens, we have very little control over the process, although we have extensive knowledge of the project itself and the applicable ordinances, and request your help.

As background, this project was initially approved by City Council in 1988, amended by administrative approval in 1990, and had its PUD extended for one year at the July 19, 1993 Council meeting. We believe that the initial approval, administrative approval, and the recent extension were granted based on a lack of information of the specifics of the project and the requirements of the ordinances. We recognize that the recent extension was granted on an evening when the Council had a very full and ambitious agenda and believe that, had Council had more time to fully explore the issues raised by the neighborhood, the chances are great that the extension would not have been approved. We feel that we were unable to adequately inform Council and the city departments regarding the issues due to the fast-tracking of the extension and our unfamiliarity with the internal city

processes, but believe that each of these issues is very relevant.

Existing Building versus Site Plan

The PUD involves three buildings; to date one building has received permits and is nearing completion. This building is significantly different from the approved buildings, both in plan and elevation. Specifically, in plan, the footprint has been increased by over 40%, the square footage of living space has been increased by over 17%, and overhanging windows and a stairwell have been added that additionally increase the square footage. The elevations have also been significantly altered, drastically changing the character of the buildings. None of these changes is allowed without undergoing the planning process as if for a new building, and most of the changes are in non-conformance with the ordinances.

Particularly relevant is the size of the existing building -- it is approximately 40% larger in plan footprint than shown on the originally approved site plan, as stated by several neighborhood members at the July 19 Council meeting. The Planning Director questioned whether this was the case at that meeting; we can assure you that it IS the case, as we have measured the building and compared it to the original site plan. Not only is such a change not allowed, it also exacerbates the storm water problems that have been so relevant in this project, as outlined later in this letter.

An administrative approval was granted for minor changes in 1990, and the Planning Director implied at the July 19 council meeting that the footprint increase could be allowed as part of that approval. However, the ordinance specifically lists the changes allowed via administrative approval, and size of the footprint is clearly not included. The types of changes that are allowed are of much less significance than the size of the footprint. In addition, the letter from the project architect requesting the changes in 1990 specifically stated that the size of the building would not change. Therefore, this change in the footprint was never approved and the existing building is thus clearly out of conformance with the approved site plan. This is clearly not allowed, and the ordinance requires that penalties, including fines and rezoning, are to be imposed.

Chapter 55, 5:80 (10), Deviations from Approved PUD Site Plan:

(a) Minor changes to a previously approved PUD site plan may be approved without the necessity of Planning Commission or City Council action thereon if the heads of the Planning, Streets, Traffic and

Chapter 57 - Subdivision and Land Use Control

5:122

- (f) Internal rearrangement of parking lot.
 - (g) Decrease in building size.
 - (h) Moving a building no more than 10 feet or 5 percent of the distance to the closest property line, whichever is smaller.
 - (i) An increase in building size that does not exceed 10,000 square feet or 10 percent of the floor area, whichever is smaller.
 - (j) Extension of site plan approval for periods up to 2 years if the plan is in compliance with existing laws and regulations.
- (6) Standards for Site Plan Approval. A site plan shall be approved unless it appears that the contemplated improvements would violate state, local or federal law and regulations, that the improvement would be likely to cause a significant serious and lasting degradation of the environment or that it would cause a public or private nuisance. A site plan may be rejected if the plans submitted are inadequate to make the foregoing determination.
- (7) Effect of Approval of Site Plan. For 3 years from the date of approval of a site plan, permits may be issued and the land developed consistent with that plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and ordinances are made applicable to previously approved developments. After 3 years from approval, a building permit shall not be issued unless the site plan is reconsidered in the manner provided for new site plans.

5:123. Plats.

Proposed plats shall be processed according to the Subdivision Control Act of 1967, being MCLA 560.101 et seq. In addition, the planning commission shall make a recommendation to the City Council on the tentative approval of a preliminary plat within 60 days of its filing with the City Clerk. The Planning Commission shall make a recommendation to the City Council prior to the time the City Council must act on the final approval of a preliminary plat. Prior to approval of the final plat, the City Administrator will provide the City Council with a report and recommendation on the plat.

(Ord. No. 55-86, S 1 11-3-86)

5:124. Land Divisions.

Land divisions not regulated by the Subdivision Control Act of 1967, and site condominium projects established under the condominium act of 1978, must be approved according to the following procedures:

- (1) The developer shall submit plans to the Planning Director showing the land as it exists and as it is proposed to be divided.
- (2) The plans shall be reviewed by the Planning, Building, Assessor, Fire, Engineering and Utilities Departments and a report of that review submitted to the Planning Commission.

Chapter 57 - Subdivision and Land Use Control

- (d) If the petitioner requests a rehearing by Planning Commission or City Council after City Council action, the petitioner shall pay the entire original filing fee.

(Ord. No. 58-92, 9-21-1992)

5:127. Required Approvals and Compliance.

No person shall construct, install or place any building or site improvement for which site plan approval is required, or divide land for which plat or land division approval is required, unless such approvals and any necessary permits have first been obtained. To obtain permits for any building or site improvement, the property owner or owner's designate shall agree to construct, install or place all required site improvements in compliance with an approved site plan, plat or land division. A certificate of occupancy or final permit approval shall not be issued for a property unless all required site improvements have been installed and these improvements approved by the Building Department or unless cash security and authorization to complete such improvements has been provided as described in this chapter. The property owner shall have a continuing obligation to maintain required site improvements in a good condition. Violation of any of the provisions of this section shall be punishable by a fine of up to \$500.00.

5:128. Security for Completion of Improvements.

Approval of a preliminary plat or site condominium land division shall be conditioned upon the execution of a development agreement which secures the completion of all public and private improvements shown on the approved plat or land division. Where the timing or nature of improvements require such security, the approval of a site plan may be conditioned upon the execution of a development agreement. Unless designated as optional, all improvements shown on the site plan, plat or land division, or described in the executed development agreement, shall be considered required site improvements and must be completed prior to the issuance of a certificate of occupancy or final permit approval. However, where it would be impractical to delay occupancy prior to the completion of certain improvements, a temporary certificate of occupancy may be issued upon the approval of the Planning Director and Building Director for a period of up to six months if an adequate cash deposit or letter of credit is presented to the City to secure the improvements. Such security shall be in the form of cash or a certified check or letter of credit and shall be forfeitable to the City in an amount equal to the estimated cost of the remaining improvements, as determined by the Building Official. The security shall be accompanied by a letter from the property owner or owner's designate indicating a date by which such improvements will be completed and authorizing the City or its designee to go onto the property and complete the construction or installation of uncompleted site improvements. If improvements have not been completed by the stated date, the Building Official may, after notice to the property owner or owner's designate, revoke the certificate of occupancy and transfer such security to the City general fund. Thereafter the City shall be authorized to go onto the property and complete the construction or installation of uncompleted site improvements in accordance with the approved site plan, plat, land division, or development agreement with the funds available. The City may charge an administrative fee of up to 20 percent of the cost of such completion to cover administrative costs incurred by this process. This fee shall be deducted from any surplus funds available, or billed to the property owner if all funds are exhausted. Any surplus shall be refunded to the applicant. Portions of the security amount may be rebated as work progresses, at reasonable intervals, provided that at all times the amount on deposit equals the estimated cost of the work to be completed.

(Ord. No. 55-88, Section 3, 1-9-89; Ord. No. 39-89, Section 1, 6-19-89; Ord. No. 69-91, Sections 5:127 and 5:128, 12-16-91)

M E M O

To: Karen Popek Hart, Planning Director /
D. Jack Donaldson, Building Director

From: Kristen D. Larcom, Assistant City Attorney /KDL

Re: Treehouse Condominiums PUD

Date: August 24, 1993

cc: Elizabeth Schwartz



Re-examination of the legal aspects of the Treehouse PUD, occasioned by Lisa Snapp's August 3, 1993 letter following Council's July 19, 1993 action, reveals substantial justification for requesting that Council revisit the issues raised by the developer's desire to continue this project.

First, in her letter, Snapp claims the one building that has been constructed deviates in numerous ways from the approved site plan. Code § 5:80(10)(b) provides:

"...Any deviation from the approved PUD site plan, except as authorized in § (10)(a) above [specific minor revisions permitted by administrative approval], shall be considered a violation of this chapter...Further, any such deviation shall result in notice to the owner that rezoning procedures will be initiated by City Council."

This is consistent with the state zoning enabling statute on site plans which provides:

"If a zoning ordinance requires site plan approval...subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change...receives mutual agreement of the land owner and the...body which initially approved the site plan." MCL 125.584d(3).

Thus, if Snapp is correct that there is one or more deviation, then Code § 5:80(10)(b) mandates "notice to the owner that rezoning procedures will be initiated by City Council."

Second, the resolution Council passed on July 19, 1993, (copy attached) may require clarification. Code § 5:80(9) provides that the time for completion of a PUD development is within five years of establishment of the PUD zoning district unless Council grants an extension beyond five years. It is the developer's obligation to undertake whatever steps are necessary to complete development. One of those steps, in this case, is the obtaining

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*8/26/93 letter from Hart to Schwartz
confirms deviations occurred*

of new building permits for the two buildings on which no construction has yet started, because the developer allowed the previously issued building permits to lapse. Code § 5:122(7) addresses the interplay between site plan approval and the issuance of building permits. That provision prohibits the Building Director from granting permits more than three years after site plan approval, "unless the site plan is reconsidered in the manner provided for new site plans." It has been more than three years since Council's 1988 final phase PUD site plan approval for this project. The title of the resolution that Council recently passed may have misled Council into believing that it did, or could, grant an extension, such that the developer need not obtain new site plan approval in order to obtain building permits. However, the Code contains no such authority; neither Chapter 55 nor Chapter 57 provide an exception to the three year rule in Code § 5:122(7) for PUD site plans. All that the developer should have been seeking and the Council should have granted on July 19, 1993, is an extension of the five year period within which to complete the PUD development. Council should be asked to clarify what it meant when it ambiguously "RESOLVED, that the Treehouse Condominiums preliminary and final phase PUD one year extension is hereby approved..." Did it mean that:

- (1) The Building Director is to issue building permits more than three years after site plan approval, but without requiring reconsideration of the site plan, in violation of 5:122(7)? OR
- (2) The developer was granted a one year extension of time within which to take whatever steps it must, including obtaining new site plan approval if necessary, to complete the PUD development?; OR
- (3) Something else?

As we (Karen, Larry, Betty and I) discussed yesterday, once Council understands the developer must undertake the plan review process, it will also become clear that the one-year extension and proposed construction schedule are unrealistic. Thus, it will be necessary for the developer to request an additional extension to allow for reconsideration of the site plan.

KDL/js

Murray-Mulholland-Liberty-Washington Residents Association

Treehouse Condominiums: Stormwater Issues

The inability of this project to provide retention for its own runoff is now, and has always been, the most fundamental problem with this site. The technical issues are complex and have generated much research and discussion, but the basic premise is that this site, due to its location entirely within the floodplain, cannot retain its own runoff, as is required. The developer's engineer claims that the design is adequate, and cites a hydrological model in support of his claim. However, without knowing the details of the model and how it accounts for this unusual situation, that claim cannot be assessed. Experts at the City and County continue to disagree with the concept of building in a floodplain, and believe that this design merely meets the letter of the ordinance regarding the size of the basin for the normal case. They do not believe that this design will function as the ordinance intended. Note that today's proposal is no different in concept, and only marginally different technically, from the proposals that have been submitted throughout the past year. Thus, conceptual comments from City and County experts throughout the year continue to apply.

In addition to this conceptual problem, the site plan is in direct conflict with the public utilities specifications regarding placement of retention facilities in the easement. This specification, apparently overlooked by staff, is critical to the City's ability to maintain and protect its infrastructure, and is sufficient, in and of itself, to deny this petition. These and associated issues are outlined below.

- The proposal is in direct violation of City regulations disallowing stormwater facilities from encroaching on public utilities easements. See *Public Services Department Standard Specification 4B*, and site plan showing the proposed surcharge area completely within drainage and sanitary easements.
- The proposal is also in violation of City regulations requiring 3.5 and 5 feet of coverage at storm and sanitary lines, respectively. The site plan apparently allows only one foot and 2.5 feet, respectively. See *Public Services Department Standard Specifications 2D and 3D*, site plan, and June 21, 1994 Staff Report to Planning Commission.
- The proposal is in conflict with the intent of storm system design regulations, which are required to have sufficient capacity to handle upstream drainage from existing as well as future development. The existing

Murray-Mulholland-Liberty-Washington Residents Association

system cannot handle the current drainage for anything larger than a one-year storm, much less that from additional development. See *Public Services Department Standard Specification 3A*.

- The proposal is in conflict with the goals of the West Side Area Plan committee, which is greatly concerned about the impacts of past and future development on the storm system and on the original west side neighborhoods. These neighborhoods, although not prone to flooding when built, are now regularly flooded due to continued development, elimination of remaining green space, and lack of upgrading of the storm system.
- Building Department approval of the site plan is based on a mere technicality: the surcharge area has sufficient "capacity" only in terms of size, but not in terms of ability, to retain runoff from the site, as is required. Staff disagrees with the concept of building in the floodplain, but has no supporting ordinance. See *June 21, 1994 Staff Report to Planning Commission, Chapter 63, 5:673, June 2, 1993 memo from Jerry Hancock to Wendy Rampson, and July 14, 1993 memo from Jerry Hancock to Karen Hart*.
- The required retention cannot be provided unless all upstream water is also retained, because the location of this site in the floodplain makes the proposed facility a type of on-stream detention. The proposed facility is not designed to accommodate this amount of runoff. See *Urban Stormwater Management excerpt*.
- A non-restricted outlet is proposed to be used, in conflict with city code -- demonstrating that this is NOT the typical case and the rules need to be bent to try to accommodate the project at all. See *June 2, 1993 memo from Jerry Hancock to Wendy Rampson, and September 15, 1978 "Report on Liberty Street Retention Basin on the Murray-Washington Drain" by McNamee, Porter and Seeley*.
- Building in the floodplain continues to go against all expert recommendation for mitigating the well-known overtaxing of the Allen Creek Drain.
 - The Murray-Washington branch of the drain has the capacity to handle only a one-year storm. See *September 15, 1978 "Report on Liberty Street Retention Basin on the Murray-Washington Drain" by McNamee, Porter and Seeley*.
 - McNamee, Porter and Seeley recommended specifically that, upstream of this parcel, the City install a very large retention basin to alleviate problems along the Murray-Washington Drain; this was not

Murray-Mulholland-Liberty-Washington Residents Association

done, and the land was developed instead. See September 15, 1978 "Report on Retention Basin on the Murray-Washington Drain" by McNamee, Porter and Seeley.

- The Washtenaw County Drain Commissioner and the City Land Development Coordinator do not support the concept of building in a floodplain or using on-stream detention See July 9, 1993 letter from David Gue to Wendy Rampson, January 3, 1993 letter from David Gue to Andrea Brown, January 21, 1994 letter from Janis Bobrin to Andrea Brown, June 2, 1993 memo from Jerry Hancock to Wendy Rampson, and July 14, 1993 memo from Jerry Hancock to Karen Hart.
- Purchasers of the condominiums would be subject to severe flooding problems on a regular basis.

DEPARTMENT COMMENTS PENDING, DISMISSED OR UNRESOLVED

Building - Storm Water Detention: (1) The storm water surcharge area provided on the current plan meets the capacity requirement of Chapter 63 (Soil Erosion and Sedimentation Control). However, the impervious area and retention volume figures listed in the Hydrologic Report should be revised to correspond with the recent revisions made to the site plan. (2) While a restricted outlet is required at the existing storm structure draining the site, the Hydrologic Report recommends that a restricted outlet not be installed, and the Building Department concurs with this conclusion. (3) On previous revisions to this plan the storm water detention calculations included all of the impervious area on the Treehouse and Pumphouse sites. Chapter 63 (Soil Erosion and Sedimentation Control) requires detention to be provided for only the impervious area added since December 1, 1978. As such, the June 15, 1994 revision to the plan provides detention for only that impervious area added since December 1, 1978. The storm water "surcharge area" provided on the current plan meets the capacity requirement of Chapter 63, Section 5:673(1). (4) The storm water "surcharge area" is located within a floodplain/floodway. The concept of providing storm water retention/detention within a floodplain is an issue that is not addressed by Chapter 63 or other City regulations. The March 1994 hydrologic report, by McNamee, Porter & Seeley, Inc., also does not address this concept.

Natural Features: (1) The current plan does not propose any tree removal. The tree replacement information shown on the plan accounts for the tree removal from previous plan approvals. (2) There is a 12-inch walnut tree shown near the southwest corner of the Pumphouse site which no longer exists. The 28-inch Basswood tree near the northwest corner of proposed Building #3 is a Black Walnut tree. Please make these minor revisions.

Engineering - The proposed grading for the surcharge area results in a reduction of cover over existing on-site sanitary sewer lines, from 3.5 feet to 2.5 feet. Since the existing lines are made of vitrified clay pipes, which are susceptible to damage from soil stresses due to frost, the Engineering Division recommends that the coverage be a minimum of three feet, or that provisions for protection of these lines from soil stresses be installed (e.g., concrete arch installation over the sewer lines).

Prepared by Andrea L. Brown
Reviewed by Wendy Rampson and Karen Hart *KPH*
jsj/6/16/94

Attachments: Revised PUD Plan
Draft Site Development Agreement
May 3, 1994 Staff Report
January 20, 1994 Staff Report

**CITY OF ANN ARBOR
PUBLIC SERVICES
DEPARTMENT
STANDARD
SPECIFICATIONS**

2C. Information Required

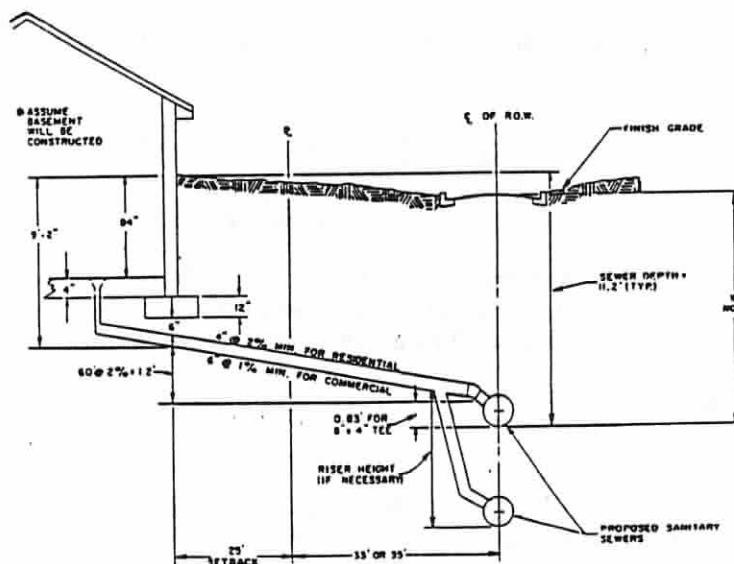
Profiles of sanitary sewers shall include the information required in Division II, Section 1A, Content of Plans and Specifications, of these Standards.

A casting schedule shall be provided including manhole/structure number corresponding to the plan, casting type (manufacturer and catalogue number), top-of-casting elevation, manhole invert and manhole depth.

A copy of the basis of design for the sanitary sewers must be submitted with the construction plans.

2D. Sewer Depth and Location

Sewer depth design shall be based on the contours of the land being served and in all cases shall be deep enough to serve neighboring properties as the sewer is extended at a future date, as well as deep enough to serve proposed basements on the immediate site. The sewer shall be a minimum of 10 feet deep when fronting residential parcels to be directly connected to the sewer, as illustrated below:



(If basements are not to be constructed, the basement floor elevation in the above example shall represent the finished floor elevation, and the pertinent assumptions regarding the sewer and lead depth below that elevation still apply).

Minimum depth of cover to the top of the pipe shall be 5 feet. The minimum depth may, however, be reduced to 4 feet for short stretches not to exceed 50 feet in length. This reduction must be approved in writing by the Public Services Director.

The maximum depth to invert of any sanitary sewer shall not exceed the depth recommended by the manufacturer for each size and class of pipe. If this depth is exceeded, the pipe from manhole to manhole shall be encased to the top of the pipe with Class X concrete, or other method approved by the Public Services Director.

2G. Interceptors

Grease, oil and sand interceptors shall be provided where required by Article 10 of the BOCA (Building Officials & Code Administrators International, Inc.) National Plumbing Code in accordance with Chapter 28, Title II of the City Code for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients. Interceptors shall not be required for private living quarters or individual dwelling units. However, an interceptor may be required if there will be a legal home occupation within the living quarters or individual dwelling unit which may generate grease, oil or sand in the sanitary wastes. All interceptors shall be installed in accordance with Chapter 98 of the City Code. They shall be located as to be readily and easily accessible for cleaning and inspection.

3. STORM SEWER DESIGN

3A. Capacity Design

Sewer capacities shall be based upon storm runoff computed by the Rational Method for a 10-year, 12-hour duration storm, $Q = CIA$, where:

Q	=	total storm runoff flow, in cubic feet per second (cfs)
C	=	runoff coefficient
I	=	rainfall intensity rate
A	=	total drainage area (acres)

Rainfall intensity rate (I) shall be determined by the formula $I = 170/(t+23)$, where, t = the concentration time (in minutes) of the portion of the site being developed (the time, in minutes, for runoff to be contributed to the point of concentration from the entire area of the site being developed).

The time of concentration and runoff coefficient shall be subject to the approval of the Public Services Director.

The hydraulic gradient shall be kept within the storm sewer pipe or 2 feet below storm casting rim elevations. Unusual conditions will be reviewed on an individual basis, and variances from this requirement must be approved by the Public Services Director.

Where the hydraulic gradient is above the top of the pipe, the 10 year storm hydraulic gradient shall be indicated on the storm sewer profiles.

The Engineer shall submit with the storm sewer basis of design computations, a map outlining the various areas which drain to the points of inlet used for design, including offsite upstream areas. The design computation sheet shall be sealed by the Registered Engineer who supervised the computations.

Sufficient capacity is to be provided in the storm sewer system to handle upstream drainage areas into the system, including allowance for future fully developed situations per current or anticipated zoning of the upstream areas.

A casting schedule shall be provided including manhole/structure number corresponding to the plan, casting type, top-of-casting elevation, structure invert and structure depth.

A copy of the basis of design for the storm sewers must be submitted with the construction plans.

Storm 3D. Sewer Depth and Location

Sewer depth design shall be based on the contours of the land being served and in all cases shall be deep enough to serve neighboring properties as the sewer is extended at a future date.

Minimum depth of sewer shall be 3.5 feet from finish grade to the top of the pipe, including inlet/catch basin leads.

The maximum depth to invert of any storm sewer shall not exceed that recommended by the manufacturer for each size and class of pipe.

Sewers located in a public right-of-way shall be located in accordance with the Standard Utility Location Plan details in Division X of these Specifications.

There shall be a minimum of ten feet of horizontal clearance, and 18 inches of vertical clearance at perpendicular crossings, between sewers and water mains, measured outside edge to outside edge. In addition, there shall be adequate separation between sewers and all utilities to allow a 1:1 trench slope from the bottom of the deeper utility which will not undermine any shallower utility. There shall be a minimum of one foot of vertical clearance at perpendicular crossings with utilities other than water mains.

Where sewer lines have been previously provided to the limits of adjoining developments, they shall be extended by the Developer in like size, or as these Standards may require.

3E. Manholes

All manholes shall have eccentric cones. Manholes may be of either precast concrete or concrete manhole block construction.

Manholes shall be placed at every change of grade, direction, and/or pipe size, and at each junction of sewers.

The maximum distance between manholes shall be 400 feet for sewers 36 inches in diameter and smaller, and 500 feet for sewers 42 inches and larger.

Whenever there is an increase in pipe size, grades shall match at a line 0.8 of the diameters above the inverts.

There shall be a minimum of 0.10 foot fall through a manhole where the sewer has a horizontal deflection of up to 30 degrees. For manholes where the sewer has a horizontal deflection from 30 degrees to 90 degrees, there shall be a minimum of 0.20 foot fall. There shall be no more than 90 degrees of horizontal deflection through a manhole.

3H. Siltation/Soil Erosion Control

All storm sewer systems shall be designed with adequate provisions for the control of siltation and soil erosion within the project. All requirements of Title V, Chapter 63 of the City Code, Division VII of these Specifications, the project's grading permit, and the Land Development Coordinator/Building Department shall be met.

4. STORM WATER RETENTION/DETENTION

4A. General

The requirements and design of storm sewer retention/detention facilities shall be in accordance with the most current, approved version of Title V, Chapter 63, Section 5:673 of the City Code. A copy of this section is included for reference in the Appendix of these Standards. However, if this Code section is revised prior to its revision in these Standards, all requirements of the revised Code section must still be met. (At the latest printing of these Standards, the current code section is dated 10/5/92).

4B. Location

Storm water retention facilities shall be located such that they do not encroach upon any existing or proposed public utility easement or right-of-way.

5. WATER MAIN DESIGN

5A. General

Each development shall be serviced by either a double source of water supply ("looped main"), or shall be designed so as to be served by a double source of water supply when adjacent properties are developed, if such concept is approved by the Public Services and Utilities Directors. Where water mains have previously been provided to the property limits of adjoining developments, they shall be extended by the Developer in like size, or larger as these Standards may require, either to a circulating water main of at least equal size, or to the property limits of the present proposed development.

Terminal dead-end water mains with water service connections are discouraged, and will not be allowed without the written approval of both the Public Services Director and the Utilities Director. This approval will only be granted if supporting data indicating that the "average day demand" for the proposed main will result in a complete turnover of the water in the dead-end main within a ____ period; and that the proposed dead-end main size and length is in accordance with Division II, Section 5I. of these Specifications. All dead-end water mains shall terminate with a complete fire hydrant assembly. This will be the only fire hydrant allowed on the dead-end main.

All water mains shall be carried to the limits of the development, for extension by the next development. All water mains shall be sized and placed in accordance with these Standards. Any water main in excess of 1,600 feet in length between interconnections may be required by the Public Services Director to be oversized at the Developer's expense. Each development must have one or more major mains depending on the size and nature of the development, the existing mains, and the development's Site Plan or Final Preliminary Plat. The Public Services and Utilities Directors may, at the City's expense, require the oversizing of any main in a development.

Water mains shall be designed and constructed with 5-1/2 feet of earth cover. Where changes in finish grade occur subsequent to installation of water mains, all manhole castings, gate valve boxes, air-relief

ESTIMATED COST OF SOIL EROSION CONTROL - \$5,000.00
 ESTIMATED COST OF SOILS PROTECTION - \$1,000.00
 ESTIMATED EXCAVATION - 472 C.Y.
 ESTIMATED FILL - 0 C.Y.

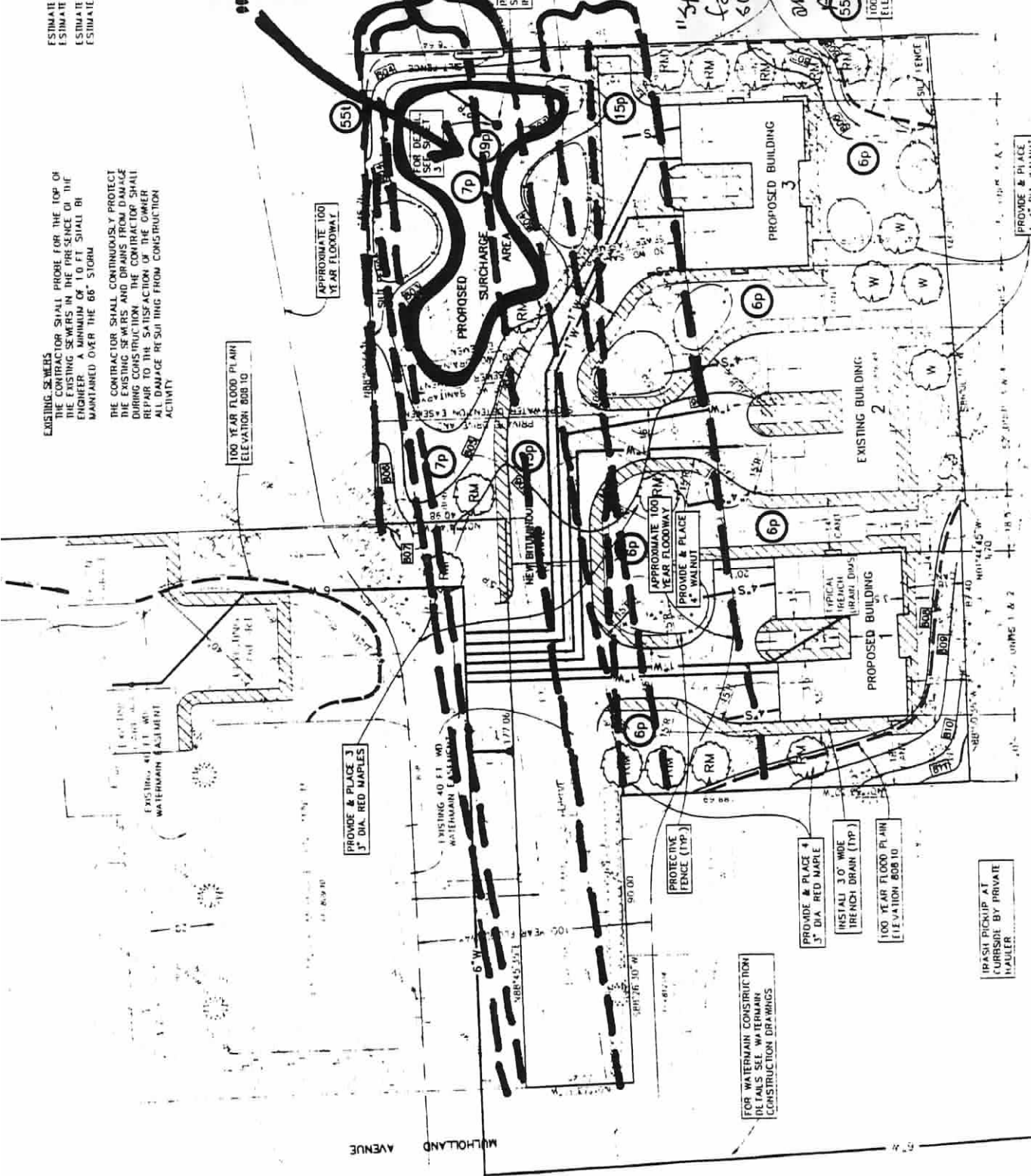
EXISTING SEWERS
 THE CONTRACTOR SHALL PROBE FOR THE TOP OF
 THE EXISTING SEWERS IN THE PRESENCE OF THE
 ENGINEER. A MINIMUM OF 1.0 FT. SHALL BE
 MAINTAINED OVER THE 66" STORM
 THE CONTRACTOR SHALL CONTINUOUSLY PROTECT
 THE EXISTING SEWERS AND DRAINS FROM DAMAGE
 DURING CONSTRUCTION. THE CONTRACTOR SHALL
 REPAIR TO THE SATISFACTION OF THE ENGINEER
 ALL DAMAGE RESULTING FROM CONSTRUCTION
 ACTIVITY.

**PROPOSED
 "RETENTION
 FACILITY"**

**SANITARY
 SEWER
 EASEMENT**
**DRAINAGE
 EASEMENT**
**SANITARY
 SEWER
 EASEMENT**

"storm water retention
 facilities shall be located
 such that they do not
 encroach upon
 any existing or proposed
 public utility easement."
 (551 or right-of-way)
 City of AZ
 Public Services
 Dept. Std. Spec.

FLOOD PLAN AND FLOODWAY INFORMATION
 HAS BEEN PROVIDED BY THE FEDERAL
 EMERGENCY MANAGEMENT AGENCY (FEMA)
 HYDROLOGIC DATA HAS BEEN PROVIDED BY
 PROVIDED BY NCHM&T, PORTER & SELLEY



NOTE: ALL TREES SHOWN ON
 THE PLAN ARE TO REMAIN
 UNLESS OTHERWISE NOTED
 REMOVAL OF TREES REMOVAL AS
 A PART OF THIS CONTRACT

SCALE

REVISIONS

DATE: 11/11/11

BY: HAWK

any person from the responsibility for damage to any persons or property otherwise imposed by law, nor impose any liability upon the City of Ann Arbor for damages to persons or property.

5:673. Storm Water Retention Facilities.

No person shall occupy any land which is the subject of a plat or site plan unless the storm water retention facilities indicated on the plat or site plan are installed. Storm water retention facilities for sites for which the plat, site plan or site plan amendment is approved after November 1, 1978 shall meet the following standards:

- (1) The water retention facilities must have the capacity to temporarily retain the storm water calculated runoff from the developed site from a 12-hour duration storm with a total rainfall of 4.3 inches, less the calculated runoff from the undeveloped site (the site as it exists prior to site plan or plat approval) from a 12-hour storm with a total rainfall of 3.1 inches.
- (2) The facilities for providing storm water retention include, but are not limited to, the following:
 - (a) A deep, permanent lake designed as a landscape element with flow control devices which will ensure both adequate retention and continuous capacity as a lake.
 - (b) Landscape shallow temporary flooding areas which may also serve as recreation or lawn areas.
 - (c) Dished parking lots.
 - (d) Underground storage.
 - (e) Roof storage.
- (3) The retention facilities shall be designed so that the maximum rate of discharge from the facilities on the developed site does not exceed the maximum rate of storm water discharge from the undeveloped site from a 10-year rainfall. The following ("Rational") formula shall be used for calculating the runoff from the site to be developed based on conditions before and after development.

↓ RESTRICTED OUTLET REQ.

$$Q = CIA$$

Where: Q = the maximum rate of runoff in cubic feet per second.

C = runoff coefficient

A = drainage area in acres of the portion of the site being developed.

I = average rainfall intensity to the site in inches per hour for a 10-year storm computed as follows:

$$\frac{170}{t + 23}$$

Where t = the concentration time of the portion of the site being developed in minutes (the time for runoff to be contributed to the point of concentration from the entire area of the site being developed).

- (4) The runoff coefficients to be used with subparagraph (3) shall be established to the satisfaction of the building official based on the site conditions of the developed and the undeveloped site. A coefficient of 0.10 shall be used for totally unimproved sites unless a higher coefficient is established in accordance with accepted engineering practices to the satisfaction of the Building Official. For determining the runoff coefficient of developed areas, the following table shall be used. The higher runoff coefficient shall be presumed to be correct unless the Building Official is satisfied that a lower coefficient (not lower than the minimum shown) is justified.

<u>Description</u>	<u>Coefficient</u>
Business or industrial area	0.70 - 0.95
Apartment dwelling areas	0.50 - 0.70
Single-family areas	0.30 - 0.50
Parks, cemeteries and playgrounds	0.10 - 0.35
Paved streets or surfaces	0.70 - 0.95
Watertight roofs	0.70 - 0.95
Lawn, berms, landscaped areas	0.10 - 0.35

- (5) For purposes of subparagraph (3), the maximum rate of discharge of a completely unimproved site shall be presumed not to exceed 0.20 cubic feet per second per acre unless the Building Official is satisfied that a higher rate can be justified in accordance with accepted engineering practices by site conditions.
- (6) Water retention facilities other than lakes or ponds shall be designed to discharge from the bottom of the facility and to dewater within 48 hours of the end of a storm.
- (7) Adequate protection against obstruction of the flow of inlets and outlets for retention facilities must be provided.
- (8) Retention facilities must be designed so that any discharge of storm water from the facility which does not empty directly into a drain shall be converted to sheet flow over the ground in a manner which will preclude erosion.
- (9) Developments having new impervious improvements not greater than 15,000 square feet are not required to have retention facilities as specified in this section. If subsequent cumulative improvements result in impervious surfaces greater than 15,000 square feet, retention facilities must be installed for all improvements built after December 1, 1978.
- (10) The Building Official's determination of whether the design of retention facilities meets the requirements of this section shall be final subject to the decision of the City Council in approving a plat or site plan.
- (11) Water retention facilities must be constructed pursuant to plans approved pursuant to this section and they must be maintained by the owner of the property on which they are located unless an alternative method of maintenance is approved by the City Council.

Section 5:673 added, Ord. No. 57-78, 11/6/1978.

JUN 02 1993

PLANNING DEPARTMENT

DATE:

June 2, 1993

TO: Planning Department, Wendy Rampson

FROM: Building Department, Land Development Coordinator, Jerry Hancock

SUBJECT: Treehouse Condo's Preliminary and Final Phase 1-year Extension

1. The current site plan does not include information on soil erosion and sedimentation control as required by Chapter 63 5:653.
2. This site plan is inconsistent with the City's storm water retention requirements (Chapter 63 5:673) for the following reasons:
 - a. ~~The detention basin is located within the floodplain area,~~ thus eliminating its detention capabilities.
 - b. Due to the detention location within the floodplain area the outlet has not been restricted which conflicts with 5:673 (3) and (5).
3. The City's "Land Development Regulations" were revised in 1989, thus the following information is not found on the current site plan and is now required:
 - a. Provide all information requested by section 1:3 including a Development Program, Community Analysis, Site Analysis, Schematic Design, and General Information.
 - b. Provide all information requested by section 1:4, of specific concern are items 10, 11, 12, 13, and 17.
Item 17 requests all information from section 1:6, 1:7 and 1:8.
- * The plans currently do not indicate the floodplain limits, Landmark tree protection and or replacement.
4. An existing landmark tree in front of the center unit which was not proposed for removal is now dead. This should be addressed per the natural features replacement requirements. (Regulations, section 1:8(b))
5. The New Chapter 60 (Wetlands and Watercourses Preservation Ordinance) does not apply to this project since the Murray - Washington Drain (Branch of Allen Creek) is an enclosed drain. See Chapter 60 5:202 (13), definition of a watercourse.
6. If a one year extension is granted what assurance will the "city" have that work will continue in a reasonably diligent manner and completed within the one year extension. (Chapter 55 section 5:80 (9)).

Jerry Hancock
Jim DeBolt

WASHTENAW COUNTY DRAIN COMMISSION
ALLEN'S CREEK DRAIN AND BRANCHES
CITY OF ANN ARBOR, MICHIGAN

REPORT ON

Proposed "on-stream"
Retention Basin
Never Built

LIBERTY STREET RETENTION BASIN
ON THE MURRAY-WASHINGTON DRAIN

"THIS SITE WAS SUBSEQUENTLY
DEVELOPED AND THESE
RECOMMENDATIONS NOT
FOLLOWED."

McNAMEE, PORTER AND SEELEY
CONSULTING ENGINEERS
ANN ARBOR, MICHIGAN

September 15, 1978

THIS IS OUR PROPOSAL OF AN "ON-STREAM BASIN" AND WHAT NO
RESTRICTED OUTLET IS PROPOSED AT TREBHOUSE.

the connection between the 66" and 72" pipes and instead providing an outlet from the 66" into the basin. Erosion protection would have to be provided. A restricted inlet to the 72" pipe would have to be provided. The opening should be about 24 inches diameter.

The overflow structure is necessary to insure that conditions upstream are not worsened because of the retention basin during a storm which is larger than the design storm. The overflow should be able to discharge all the flow which could be coming into the basin without much increase of the water level in the basin; a long weir would be most desirable. Additional information is necessary on the upstream drains before a design of the overflow can be done.

The development of a retention basin at this site would provide considerable benefits. Without the basin, in order to provide a 10-year capacity, a 96" diameter relief is necessary along the Murray-Washington Drain from the basin site to the outlet at Allen Creek. Allen Creek would need a 13 foot diameter relief from the Murray-Washington Drain to Felch Street and a 17 foot diameter relief from there to the outlet. With the basin, in order to provide similar protection, a 60" diameter relief would be necessary from Bemidji and Montgomery to the outlet of the Murray-Washington Drain, and a 16 foot diameter rather than a 17 foot diameter could be used on Allen Creek. If relief is not provided, Murray-Washington Drain has a capacity to handle about a 1-year storm. If the retention basin is built and relief is not provided, the drain would have the capacity to handle about a 4-year storm.

Several other important considerations should be noted. As it is presently conceived, a portion of the Liberty St. road right-of-way and some of the land south of Liberty St., called Eberwhite Woods

MEMORANDUM

TO: Karen Hart, Planning Dept. Director

FROM: Jerry Hancock, Building Dept., Land Development Coordinator

SUBJECT: Storm Water Retention Issue at Treehouse Condo's

DATE: July 14, 1993

The Treehouse Condominium site plan proposes a storm water detention area within a designated 100 year floodway/floodplain area. The concept of providing storm water detention within a floodplain is inconsistent with the goals of Chapter 63 section 6:673 since the detention area will be occupied with floodwaters and not have the available capacity to temporarily retain storm water from this site as is required by section 6:673(1).

This concept was discussed during the original site plan approval process. The engineers involved suggested that it would be detrimental to provide a detention area with the normal outlet restrictions due to the floodplain existence. This concept was agreed upon and the project was approved by City Council which is allowed for in section 6:673(10) of Chapter 63.

Once the basic concept and site plan were approved by City Council the project moved to the next step, obtaining construction permits. To obtain a City Grading Permit it was necessary for a hydrologic report to be prepared by a Professional Engineer per Chapter 63 section 5:656(4) (this section has subsequently been slightly modified) A hydrologic report was provided by V.P. Kaunelis of McNamee, Porter & Seeley, Inc. on January 29, 1991.

*very
incomplete
report*

This report explains the drainage and storm water concept used for this project and claims that no detrimental influence on the public welfare or upon the total development of the watershed will occur. I found this report to be accurate the thus issued a Grading Permit for the project.

In conclusion, this site plan is inconsistent with the goals of the City's storm water retention requirements. Documentation has been provided which suggests that complying with the requirements would actually be detrimental. The project was previously approved on that basis. I do not feel the City should condone construction of new buildings within floodplain areas. But, if it does as it has in this case, the solutions provided on the Treehouse Condominium site plan are acceptable means of mitigating the potential detrimental influences created by its construction.

Jerry Hancock

628.212
H5121.

McNamee, Porter & Seeley
LIBRARY

URBAN STORMWATER MANAGEMENT

Prepared by
APWA Research Foundation
and the
Institute for Water Resources
of the
American Public Works Association

Sponsored by
Forty-Four State, Provincial, and Local
Agencies of Government

AMERICAN PUBLIC WORKS ASSOCIATION
1313 East Sixtieth Street
Chicago, Illinois

privately owned. For each of the various types of facilities reported in use for stormwater detention, Table 7-1 shows that private ownership (by individuals and organizations) predominates over public ownership.

Twenty-three installations of porous pavement were reported for disposal of stormwater by infiltration. Eight of these were constructed using porous asphalt, twelve using cored (hollow) concrete blocks, and three using materials not identified.

As part of the APWA survey, the communities were asked for physiographic data on their topography, soil permeability, soil erodibility, vegetative cover, water bodies receiving stormwater discharges, elevation of groundwater table, annual precipitation, type of problem rainfall (thunderstorm versus prolonged rain) and climatic classification. An analysis of those communities with 10 or more detention facilities revealed that the communities having detention facilities are found in all areas of the country, irrespective of physiography.

About 20 public agencies each reported having 100 or more detention facilities. Six of these communities each reported 500 or more facilities. For example, the Metropolitan Sanitary District of Greater Chicago estimates that there are over 1,700 detention facilities in its service area (Cook County, Illinois). Included are 800 ponds and dry basins on ground surface, 600 parking lot detention facilities, 100 buildings with rooftop storage, and 20 installations of oversized sewers and underground tanks. Other communities reporting over 500 facilities includes Jefferson County, Kentucky (730 facilities), Montgomery County, Maryland (700), St. Louis County, Missouri (655), Nassau County, New York (600), and Phoenix, Arizona (575 facilities).

ALTERNATIVE MEANS OF STORING EXCESS RUNOFF

There are three principal places to store runoff:

1. *at ground level* — in ponds, basins, infiltration pits, and on paved areas such as parking lots, walkways, and street surfaces

2. *underground* — in oversized drains and sewers, caverns or tanks, dry wells, and within porous rock strata (recharge)

3. *above ground* — on rooftops

Some of the means of providing detention are single-purpose, for runoff control; however, many other methods are multiple-purpose. The latter are often the most favored, better accepted, and most feasible from a financing standpoint. Descriptions and discussions of both single-purpose and multiple-purpose facilities are given here. The opportunities and constraints associated with various detention methods and types of facilities are identified.

ON-SITE, ON-STREAM, AND OFF-STREAM FACILITIES

The advantages and disadvantages of detention facilities are largely dependent upon the *location* of the facilities — whether on-site, on-stream, or off-stream. Advantages and disadvantages are identified here for each type.

On-Site Detention Facilities *(CALIBRATIONAL)*

Potential Advantages

- Attacks or prevents problems at their sources
- Permits small areas for detention sites to be feasible
- Permits construction cost of stormwater transport system to be less
- Can permit ponds to serve as urban wildlife habitats
- May provide recreation opportunities
- Improves aesthetics (if properly maintained)
- Protects areas along entire length of drainage system from new stormwater problems and prevents compounding existing problems
- Offers choice of methods (rooftop, parking lot, ground surface)
- Can sometimes be incorporated into other local programs (parks) i.e., a good use of required open space

Potential Disadvantages

- May require use of expensive, desirable building sites
- May result in a proliferation of randomly located detention facilities
- May be hard to maintain if facilities are scattered
- May cause environmental detriments and safety hazards to develop when maintenance is insufficient
- Could increase flows in remote downstream areas if upstream facilities are randomly located

On-Stream Detention *(W FLOOD PLAINS / FLOODWAYS)*

Potential Advantage

- May lessen runoff from short-duration rainstorms satisfactorily

Potential Disadvantages

- Is not a substitute for on-site detention — unless the volume of storage provided also allows for contributions from all tributary upstream areas
- Long-duration rainstorms may produce a condition in which inflow and outflow are comparable in magnitude, and the water level (stage) stabilizes. The increase in flow caused by urbanization will, therefore, be passed into downstream reaches
- May increase stream stages in upstream areas
- May contribute to surcharging of storm sewers in upstream areas

Off-Stream Detention

Potential Advantages

- Adds flexibility to design — location choices
- depth and area alternatives
- layout alternatives
- hydraulic alternatives
- Permits low flows to pass into downstream areas without using valuable storage capacity of the facility
- May hold stored runoff for whatever time period seems necessary and prudent, realizing



JANIS A. BOBRIN
DRAIN COMMISSIONER
110 N. FOURTH AVENUE, SUITE 202
P.O. BOX 8645
ANN ARBOR, MICHIGAN 48107-8645

DAVID P. GUE
Deputy Drain Commissioner
MICHAEL J. STAGG
Field Operations Manager
AMY C. MARCUM
Administrative Coordinator

July 9, 1993

AREA CODE 313
TELEPHONE 994-2525
FAX 994-4847

Ms. Wendy Rampson
Planning Department
City of Ann Arbor
100 N. Fifth Ave.
P.O. Box 8647
Ann Arbor, MI 48104



Re: Treehouse Condominiums

Dear Ms. Rampson:

Though we cannot condone of building in a floodplain, we offer the following comments on the Treehouse Condominium project located on Mulholland in Ann Arbor:

1. Minimizing the impervious surface area and permanent structures on the ground in the floodplain and floodway areas would be helpful. Travel parking areas and drives are examples of ways to foster infiltration and minimize project impacts. Though the city is a flood area will impede the effectiveness of the best management practices.
2. A stormwater detention retention area should not be utilized on this site. The detention retention area, as it is called on the plans, is a storage area for surcharging that may occur in the Murray-Washington system.
3. French drains are proposed as a stormwater management tool. French drains or infiltration trenches are of limited benefit in clay soils. Further, national studies show a fifty percent failure rate with many such infiltration devices. If French drains are incorporated, a maintenance plan, including annual inspections, should be required. Furthermore, careful oversight of installation is critical.
4. Compensation for losses of flood plain volume due to the construction of this project.
4. The floodway should be maintained across the site.

Very truly yours,

David P. Gue
Deputy Drain Commissioner

Office Open Week Days From 8:30 A.M. to 5 P.M.



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January 21, 1994

Andrea Brown
City Planning Department
City of Ann Arbor
100 N. Fifth
Ann Arbor, MI 48104

Re. Treehouse Condominiums

Dear Ms. Brown:

We have conducted a review of additional information received relative to the captioned project. The review time frame did not allow us to verify stormwater calculations; we are confident that City staff will identify any errors that may exist. We confine our comment to the conceptual stormwater management plan.

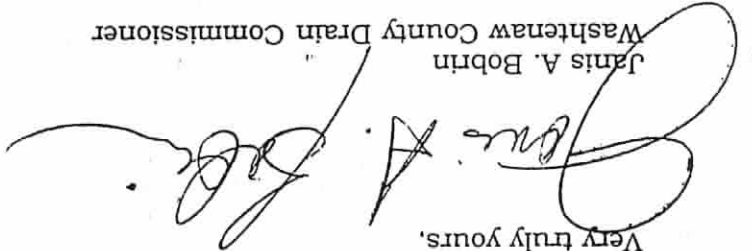
The stormwater management system proposed for the site is based on the theoretical assumptions of the Rational Method---that because of times of concentration, the additional stormwater generated by impervious surfaces associated with the Treehouse Condominium development will be off the site and into the drain before stormwater from the upstream watershed reaches this location. Unfortunately, in the real world, storms often fail to follow the theoretical ideal, and do not fall uniformly over the watershed. Should a downpour sweep in from the west (as so often is the case), its peak of intensity over the Murray-Mulholland area could easily coincide with the arrival of peak stormwater flows from the upstream watershed, creating significantly higher flood elevations on site, and generating potentially serious off site impacts as well. On a site such as this, where known problems exist prior to development, an overly cautious design with significant room for error should be required. Instead, what is proposed is a system that could fail to function as portrayed in any but ideal circumstances.

We cannot endorse construction of the proposed condominium development on this site. Further, the stormwater management system does not meet the adopted rules of the Washtenaw County Drain Commissioner, and would not receive our approval were this office the agency of jurisdiction. We respectfully advise review and reconsideration by the City of its blanket exemption of sites under 15,000 square feet of impervious surface from on-site stormwater management requirements. Exemptions should be granted on a case-by-case basis, based on evaluations of site-specific circumstances.

Finally, should this project proceed as currently designed, we recommend that potential buyers be notified through the condominium master deed of the potential for severe flooding at ground elevations where vehicles will be stored.

We are hopeful that these comments will be considered in decision-making relative to the captioned development proposal. Please contact David Gue, Deputy Drain Commissioner, or me if questions arise.

Very truly yours,


Janis A. Bobrin
Washtenaw County Drain Commissioner

cc. David Stead, Ann Arbor City Councilperson
Thais Peterson, Ann Arbor City Councilperson



JANIS A. BOBRIN
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DAVID P. GUE
Deputy Drain Commissioner
MICHAEL J. STAGG
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January 3, 1994

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Ms. Andrea Brown
Planning Department
City of Ann Arbor
100 North 5th Avenue
Ann Arbor, MI 48107

RE: Treehouse Condominiums

Dear Ms. Brown:

The above noted site plan job number 24495 with revision date of 8-20-93 has been reviewed. The following comments are from that review:

"Based on the information provided, we do not believe the stormwater issues have been adequately addressed. The site is in the flood plain for the Murray-Washington Drain, an established County Drain. The Murray Washington Drain is an extremely overburdened system and surcharges in storms as small as the one and one half year event. The land proposed for development is inundated during these small storms.

The majority of this site is designated as floodway and floodplain and should be identified as such on the plans. In the past we have asked that developments minimize the use of impervious surface areas. The plans we have received show paved parking and driveways that would add to flooding problems already occurring in the area. Infiltration drains or French drains will not function properly in clay soils or when inundated. From the current plans, it is not clear that the surcharge area would compensate for the affects of additional impervious surfaces. Further, runoff calculations are not based upon the current development proposal.

Because a portion of the project is within the Murray Washington Street Drain easement, a permit from this office would be necessary before any work begins. The current proposal does not meet the stormwater management standards used by this office in its permit review process (Rules of the Washtenaw County Drain Commissioner, January 1994).

We understand that additional information will be provided to the City by the developer and would look forward to an opportunity to review it.

Very truly yours,

A handwritten signature in cursive script, reading "David P. Gue".

David P. Gue
Deputy Drain Commissioner