

June 8, 2012

City of Sammamish Planning Commission

Joe Lipinsky, Planning Commissioner

**EXHIBIT NO.** 130.

Dear Mr. Lipinsky,

Our names are Jessie and Jozef Majerczyk. I am sure everyone within the City Council and Commissions know who we are since we have written every city official, city council and the mayor, and have yet to receive a response from anyone.

We reside at 2424 212<sup>th</sup> Ave SE, Sammamish, WA. The problem at hand is the drainage pipe the City of Sammamish allowed the builder of Pine Creek Subdivision (Development) to place and drain onto our property. The development of this property began last year and in the original plans, the pipe was to be placed on the opposite side of the road. In June and July of last year, the developer, Glen Murray, came to us to negotiate using our property to place this pipe. He wanted to place the 12 inch pipe under our driveway and we agreed under one condition, which was that the pipe not end on our property, but rather run the entire length of our property and empty into Pine Stream. Approximately two weeks before they began working, I once again spoke with Mr. Murray and reconfirmed that the pipe was to run the entire length of our property. He at that time told me the pipe was to end shortly after our driveway so that the water would flow onto our property. At this point, I told him that I would not agree to this new arrangement and that he could not use our property for the placement of this pipe. From this point, the amicable "friendship" we had ended abruptly. In August of last year, plans were changed at the last minute because we did not allow them to use our property and the City of Sammamish approved the placement of this 12 inch pipe to be placed alongside the road next to our property. The water from this pipe drains directly onto our property creating a stream under our tree line and a wetland on the lower half of our property. The City and Developer claim that the water follows a drain type ditch before it

reaches our property but there is no such ditch, rather it is a hill that slopes directly onto our property. The street level sits higher than our property so that when the unfiltered water drains out of this pipe, it runs directly onto our property causing several trees to die and fall over. Some of the remaining trees are now dying and beginning to lean, since the water that drains causes a stream of water on the property and the trees roots remain constantly permeated with this unfiltered water. This amount of water is overwhelming since it comes from the street, surrounding sidewalks as well as the accumulation of the entire development next to my property (ie. from the streets of the development as well).

We are very concerned on yet another point. In now understanding exactly how these water basins are constructed after consultations with a few experts, I do not believe this above ground water basin is constructed correctly. It is my understanding that a rubber liner should have been placed under the basin to prevent the water from leaking onto my property because it is an above ground basin. I do know that no such liner was placed rather they used a dirt mixture instead and was placed 8-10 feet above our property. This explains the constant water on our driveway. I would like someone to come and investigate to see whether the construction was correct or if the developer took another shortcut in hopes of not being caught as well as examining whether there is a filtration of some kind on the water that is being released from this pipe. I believe the amount of water along with the chemicals and pesticides in this water that flows on our property is killing my trees and vegetation as well as damaging my land. If such safeguards are not put into place, the damage to my property will be worse once the development is occupied by residents using various pesticides and chemicals on their property.

I am requesting the Commission force the developer to move this pipe back to its original position across the street so that my property does not suffer anymore damage. Also, we are requesting the Commission make the developer repair the damage already done to our property as well as investigate the construction of the water basin and the lack of a filtration system for the water. I am inviting the Commission to come and look at how the developer has left the condition near

and around our property as well as the property damage itself. I find it odd that decisions are made regarding the damage done to our property, or as the City states "the lack of damage" but yet no one has come to see it when an invitation has been extended.

The City has stated that it is working with us but their statements are untrue. I would like to resolve this matter with the City in an amicable way before I have to get the media and attorneys/state courts involved. I know that I have a 2 year window to make my case and the City also holds a bond from the developer in case of damage. I have written several letters to every official that has played a part in this situation and they have taken months to respond to my letters in hopes of running down the clock and expiring the 2 year window. I will not allow the City to destroy my property and will take this matter to court if a resolution cannot be reached soon.

I am hopeful you can be a key force in helping us resolve this matter. I look forward to hearing from you. I can be contacted by the above address, home number of 425-391-6931 or my cel phone 704-497-2798.

Thank you for your time and attention in this matter.

Regards,



Jessie and Jozef Majerczyk

CC:

Kathy Richardson, Chair

Michael Luxenburg, Vice Chair

Mike Collins, Planning Commissioner

Mahbubul Islam, Planning Commissioner

Ryan Kohlmann, Planning Commissioner

Jeff Wasserman, Planning Commissioner

February 3, 2012

City of Sammamish

Attn: Kamuron Gurol, Community Development Director

Dear Kamuron Gurol,

My name is Jozef Majerczyk. I reside at 2424 212<sup>th</sup> Ave SE, Sammamish, WA 98075. I am writing you with my concerns and complaints. Recently, Laurel Hill Partners, LLC purchased the land adjacent to mine and began construction of several home sites called Pine Lake Development. Prior to the construction of this development, our property was on pretty even ground. Along the driveway to my house where the property line is, was even to the adjacent property, now a large water retention reservoir is there. This reservoir is around 200 feet long by 18 feet deep. Its retaining walls are roughly 20 feet high and significantly elevated when compared to my driveway level. This retaining wall is constructed of dirt and sand at the height of about 6 to 7 feet, adjacent to my driveway, while the other side adjacent to the new homes is constructed of both cement blocks and dirt at a height of 20 feet. Such a large and high reservoir, so poorly constructed poses a deadly threat to not only myself but anyone that enters my property, especially during a natural disaster such as a minor earthquake. Another concern is heavy rain, which can fill the reservoir at a very rapid pace causing enormous pressure on the walls which at some point may collapse. In my opinion and many others that I have consulted, this is a highly probable scenario since parts of this wall were constructed with just dirt while other parts with cinder blocks and dirt. Looking at the recent rainfall levels, the danger is increasingly significant since the soil is penetrated with water which disturbs the integrity of the retaining wall, causing it to become ever weaker. In my opinion, this reservoir looks more like an above ground swimming pool rather than a reservoir. This hazardous situation does not only apply to the one side of the driveway but also to several areas of the other side of my driveway. There is lawn there that needs to be mowed frequently, which again, puts me in this hazardous situation. Due to the danger of the situation I am faced to deal with I would like a response to several serious questions:

Can someone guarantee that in an event of an earthquake or other natural disaster, the walls of the reservoir will not be damaged and eventually collapse the walls? Can someone guarantee that heavy rainfall will not damage the walls of the reservoir and cause it to collapse?

If any of the situations above happen, this would cause severe erosion of my property/driveway and prevent access to my home or access to the street.

This water retention reservoir does not have adequate protection and could eventually collapse, flood my land and cause a mudslide. The Law of Physics implies this is possible purely based on the elevation difference. Therefore, I would like to request for someone adequate and competent to evaluate this situation to ensure the reservoir was constructed properly for not only my safety but everyone who is involved.

The second complaint I have is that from this reservoir the drainage is let out to drain onto my property. The problem comes in because the Ms. Tawni Dalziel, whom is the Project Engineer Development Reviewer for the City of Sammamish, keeps explaining to me that the water is released into a ditch running alongside my property. There is no such "ditch", this so called "ditch" that runs along the side of my property is actually at a higher level than my property. Because of the excessive rain running down from the street and the drainage from this reservoir, paired with the winter storm over the last few weeks, 7 of my trees that run along my property line have fallen over. If nothing is done about the drainage problem, the City of Sammamish has essentially allowed this company to make my property a wetland. In speaking with Ms. Tawni Dalziel, which we have been trying for several months to resolve this issue, informed me that the pipe leading from the reservoir is under city protection because of the Pine Lake Stream and that it is on a setback of 150 feet. In actuality, it is around 200 feet and the pipe ends on my property causing the water to flow directly onto my property. When speaking with Ms. Tawni Dalziel, I explained to her that if the water is drained onto my property at this rate, eventually it would turn my property into a wetland and I would never be able to build anything here in the future. She then informed me that I would never be able to build anything on that piece of land anyway. I do not understand how she would have the right to tell me what I can or cannot do on my land. I have written to her several times in reference to all these concerns and have not yet received any kind of response from her on this matter. The same letters were forwarded to Mr. Tom Tubbs, the Construction Inspector, whom also told us he would call us months ago and never did; Mr. Jeff Brown, the Sammamish City Engineer and the Permit Center of Sammamish but again, I have never received a response from any of them either.

It is my understanding from Ms. Tawni Dalziel, that the construction of the reservoir is guaranteed for 2 years after completion if something should happen, the builder will fix the problem. But, what happens after the 2 years expires? I assume it will be my financial responsibility to fix something that causes damage to my property even though I did not construct this reservoir? I do not, nor anyone in this situation, would not agree to this. Once again, I ask that someone who is educated, unbiased and competent in these matters evaluate

this situation so that my property is not further damaged nor is the value of my property decreased, and that the safety of myself as well as anyone entering my property be not in jeopardy.

Thank you for your time and attention in this matter. I look forward to hearing from you. My contact number if anyone should need to reach me is 425-391-6931.

Regards,

Jozef Majerczyk

Cc: Kurt Aldworth, Building Official  
Kamuron Gurol, Community Development Director  
Jeff Brauns, P.E., City Engineer  
Susan Cezar, Deputy Community Development Director  
Tawni Dalziel, P.E., Project Engineer  
Tom Tubbs, Construction Inspector  
Glen Maurer, Murray Franklyn



801 – 228<sup>th</sup> Avenue SE • Sammamish, WA 98075 • Phone: 425-295-0500 • Fax: 425-295-0600 • web: [www.ci.sammamish.wa.us](http://www.ci.sammamish.wa.us)

March 19, 2012

Josef Majerczyk  
2424 212<sup>th</sup> Ave SE  
Sammamish, WA 98075

**RE: Pine Creek Subdivision  
Construction concerns**

Dear Mr. Majerczyk:

Thank you for writing the City of Sammamish regarding your construction concerns on the Pine Creek Subdivision. Since these issues have been ongoing, a chronology of the correspondence and investigation regarding your issues is summarized below:

- October 28, 2011: City received letter from Mr. Majerczyk.
- November 1, 2011: Tawni Dalziel (TD), City staff, provided written response to letter from Mr. Majerczyk indicating City has requested additional response from developer.
- November 2, 2011: TD and Eric LaFrance (EF), City staff, field visit to review drainage discharge.
- November 4, 2011: Glen Maurer (developer) provided written response to letter from Mr. Majerczyk.
- November 14, 2011: TD provided Public Works written response to letter from Mr. Majerczyk.
- November 22, 2011: 10:00am TD received voicemail that water from pond was running on driveway.
- November 22, 2011: 12:30pm TD field visit to property to investigate water ponding. No water was observed. Photos taken.
- November 28, 2011: TD on phone with Jessie Majerczyk to discuss issues.
- November 28, 2011: TD field meeting with Jessie Majerczyk to discuss Public Works November 14, 2011 letter.
- January 11, 2012: City received letter from Mr. Majerczyk dated December 29, 2011.
- January 18, 2012: TD review of letter from Mr. Majerczyk.
- January 20, 2012: TD received voicemail that trees had fallen during ice storm.
- January 20, 2012: TD field visit to investigate trees fallen during ice storm.
- February 3, 2012: TD field meeting with Jessie Majerczyk.
- February 3, 2012: City received letter from Mr. Majerczyk.

A summary of the issues are described as follows:

1. **Property line dispute.** During the field meeting on November 28, 2011, Ms. Dalziel explained the signed and stamped survey by Barghausen Engineering. Without further surveying information presented, Public Works sees this issue as resolved.
2. **Driveway entrance difficulty making turn.** During the field meeting with Ms. Dalziel on November 28, 2011, it was discussed that the driveway entrance is 21-ft wide, wider than most driveways in the City that allow residential and commercial vehicles. Since the field meeting on November 28, 2011, Public Works sees this issue as resolved.
3. **Drainage.** Public Works has researched the historical drainage path for 212<sup>th</sup> Ave SE in this area. From contour mapping, aerial photography, historical drainage complaint documentation, the as-built plans for the Quail Crest subdivision (located to the south of Pine Creek), and the existing culvert running under your driveway, it is clear that the historical drainage from the road and the developments to the south of your tax parcel was contained in a ditch along 212<sup>th</sup> Ave SE and drained to Pine Lake Creek. The as-built plans for the Quail Crest subdivision discharged their stormwater onto the existing ditch along 212<sup>th</sup> Ave SE (now Pine Creek frontage). Similarly, stormwater from the Pine Creek subdivision discharges to the ditch along 212<sup>th</sup> Ave SE. Stormwater from this development will continue to discharge to the ditch along 212<sup>th</sup> Ave SE. Public Works sees no further resolution on this issue.
4. **Wetland Creation and Future Development.** You expressed concern about possible wetland creation by the stormwater running in the ditch. There is a berm on the back side of the ditch that prevents water from overtopping onto your property and inundating the grassy area. However, your future development potential is limited by the 150-ft stream buffer from Pine Lake Creek. Public Works sees this issue as resolved.
5. **Health of trees adjacent to ditch.** Since stormwater historically drained into this ditch, it is difficult to make the connection that the subdivision stormwater is causing additional harm to these trees. Some trees did fall during the January snow and ice storm; however, the trees were likely affected more by the weight of snow, frozen temperatures, lack of wind buffer protection, shallow root system, and tight spacing, rather than stormwater. Because of the freezing temperatures, there was no stormwater flowing at the time the trees fell. Additionally, there were trees upstream of the stormwater discharge that appeared to fall in a similar fashion. In your October 28, 2011 letter, you indicated you obtained the services of an arborist who suggested that the health of the trees adjacent to the ditch may be affected by the development stormwater discharge. We would again request that a copy of the arborist report be made available to the City for our review.
6. **Construction of pond embankment.** In the City's letter to you dated November 14, 2011, we provided written documentation from Terra Associates describing their geotechnical inspection of the pond embankment. The embankment was constructed meeting all standards in the industry in its design and construction. The City of Sammamish will be responsible for future maintenance of the pond embankment. Public Works sees this issue as resolved.
7. **Damage to tree limbs.** We understand the developer pruned the trees in December 2011 in accordance to your instructions. Public Works sees this issue as resolved.
8. **Mailbox location.** We understand that you would like your mailbox moved to the south side of your driveway. The Post Office has been contacted to determine if moving the mailbox on 212<sup>th</sup> Ave SE is acceptable. If it is acceptable, we will request that the developer move the mailbox.

Pine Creek subdivision  
March 19, 2012

The above chronology and summary of issues is intended to document the investigation of many of your concerns with the construction of the Pine Creek subdivision. We will continue to make our best efforts to resolve the remaining outstanding issues.

Best regards,

A handwritten signature in cursive script, appearing to read "Laura Philpot".

Laura Philpot, PE  
Public Works Director  
City of Sammamish

cc: Kurt Aldworth, Building Official  
Kamuron Gurol, Community Development Director  
Jeff Brauns, P.E., City Engineer  
Susan Cezar, Deputy Community Development Director  
Tawni Dalziel, P.E., Project Engineer  
Tom Tubbs, Construction Inspector  
Glen Maurer, Murray Franklyn

April 5, 2012

Laura Philpot

Public Works Director

City of Sammamish

RE: Pine Creek Subdivision

Construction concerns

Dear Laura Philpot,

I received your letter dated 19 March 2012, in regards to the Pine Creek Subdivision concerns. I have found it quite interesting that the Public Works office finds all issues resolved in favor of the City and the developer.

To summarize once again:

1. Property line dispute: This is indeed resolved because in the original plans the mailbox was to be placed back on our property line, which was recently taken care of. Following the property line indicated, we would like for the developer to install the fence that was promised before construction was started. We were promised a wood privacy fence so as not to see the water basin from our house and trees to block the view as well. If not, the existing fence will be removed because this lies on our property line at the cost of the developer.
2. Driveway entrance difficulty making turn: Public Works measured our driveway at 21 feet, which in actuality is 15 feet but fails to mention the right angle needed to turn right into our driveway because of the unfinished sidewalk addition the developer constructed that is located on our property. A wide right angle must be made to avoid damage to vehicles tires, whether it is mine or a visitor to my house. We request that the developer finish off the sidewalk together with the curb so that it looks like the curbs at the entrance to the subdivision they constructed, Pine Creek. I find it odd, that it is done correctly at a subdivision they have developed, yet left as ours is, for a resident of Sammamish. It does not matter how wide my driveway is when someone (ie. the developer) has encroached onto my property with their fence. My question of why the original plans were changed still remains unanswered.

3. Drainage: It is good that Public Works has researched the historical drainage path but what is happening now is quite different from what history has shown. There was no preexisting water basin there for history to show where this water was going. The issue still stands, the drain water is filtering on our property. There once again, is no ditch for this water to continue on; rather our property sits below this slope, which you refer to as a "ditch", from the street causing the water to flow onto our property. If there are arial pictures of our property, I would like a chance to see these, showing water standing as my current pictures show, of what is happening now. The water historically traveled down the street and what little rolled down the slope had made it onto our property but now the water is purposely let out on our property via this peipe. I do not understand how anyone can view this slope as a ditch, as my pictures of this portion of my property show. I would like an explanation as to why this peipe is not let out into Pine Stream instead of on our property.
4. Wetland Creation and Future development: This issue is far from resolved. As in item #3, drainage water is causing our property to become a wetland. The City states that there is a berm on the back side of the ditch (slope) but there is no "wall" preventing water from flowing onto our property. There are rocks there, which I have placed there, because they were thrown around my property and I could not mov where I needed to. As for the limited potential you mention, there is roughly a 15 foot additional setback off my property line, the liny limit I would have to potenital future development is caused by the drainage and wetland the drainage is causing. I will not allow this to happen.
5. Health of trees adjacent to ditch/slope: I find it odd that these trees have been in existance for over 15 years and have survived many storms, yet once this "stream" that now flows on my property and under the root system of these trees, once released by this pipe, they begin to fall over. It seems the City and developer are trying to avoid responsibility by blaming the weather and finding no correlation between excessive water ponding and the falling of 15 year old trees with their roots exposed. As I have stated, the City is welcome to hire an independent arborist or someone from the environmental protection agency, which there are many in WA State, to see if this correlation can be made. Otherwise, I can request the help from the Environmental Protection Agency to come and make a judgement.
6. Construction of pond embankment: The concern of maintenance of the pond embankment is not mine, what concerns me is who will take care of my property should some kind of disaster stike this embankment. During the City of Sammamish Town Hall Meeting, it was stated by certain members that Sammamish lies on fault lines making it prone to earthquakes, one which was recorded around 3.5, just recently. Predictions are being made of larger quakes in our area which would cause this embankment to

break due to the fact that it is above ground with no reinforcement other than dirt. I need written assurance from the City that the City will take responsibility for damages to my property if this should happen and my property floods. I feel that it is wrong to sell property with no disclosure to the new home owners in Pine Creek Development that their property sits on ground that if a large earthquake should happen, their homes will first fall into a large pool of water then they will live on my driveway/property. I will be on the lookout for these new families to forewarn them of the danger.

7. Damage to tree limbs: Yes, the developer did prune my trees once they broke half of them down and after I complained to the City, but I did not ask for fallen trees or for the rest of the existing trees to hang as they continue to die.
8. Mailbox location: I would like to thank the City of Sammamish for making the developer put my mailbox back onto our property line, where it belongs and where the original plans per the developer show.

According to Mrs. Tawni Dalziel, at one of our meetings, the City of Sammamish holds a 2 million dollar bond should the developer make a mistake or if there is damage to properties. I feel that the time has come to take responsibility and fix the mistakes the developer made and the mistakes the City has approved.

I am enclosing many pictures of my property being saturated with water, water flowing and standing under and by what trees I have left on my property, along with other pertinent photos.

I am inviting all City of Sammamish officials along with the mayor, City Council members and local News Stations, to come and see if they would like and accept the conditions of my property when it rains. And after seeing my stream in the front yard, the pool of water just beyond that in the grass and half my driveway in water, they can at that point let me know if Public Works sees these issues as resolved.

Thank you for your time and attention. I look forward to hearing back from you soon.

Regards,

Jożef Majerczyk