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Saint Paul City Council
15 Kellogg Blvd., West
Saint Paul, MN 55102

Re: Opposition to the proposed Treehouse senior housing development currently planned by Trellis developers at 0 Madison Street (ZF# 22-104-395, ZF# 22-116-859, and ZF# 22-104-315, North of 2319 W. 7th St.)

Dear Council Members:

Trellis has requested a variance of the zoning code section 63.111 which provides strict restrictions on development of steep slopes. Section 63.111 is part of the city zoning code.

Section 61.601 of the zoning code sets forth the requirements for obtaining a variance from the zoning code. Specifically, section 61.601 states:

The board of zoning appeals and the planning commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

- (a) The variance is in harmony with the general purposes and intent of the zoning code.
- (b) The variance is consistent with the comprehensive plan.
- (c) The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.
- (d) The plight of the landowner is due to circumstances unique to the property not created by the landowner.
- (e) The variance will not permit any use that is not allowed in the zoning district where the affected land is located.
- (f) The variance will not alter the essential character of the surrounding area.

....

In granting a variance, the board or commission shall make written findings stating the grounds upon which the variance is justified. Inadequate access to direct sunlight for solar energy systems constitutes a practical difficulty in finding (c) above.

(C.F. No. 10-349, § 2, 4-28-10; Ord 15-26, § 4, 6-3-15; Ord 15-32, § 2, 7-22-15)

Based on this standard, the requested variance is contrary to law. The requested variance does NOT satisfy any of the outlined criteria.

The commission made no findings that the variance is consistent with the general purposes and intent of zoning ordinance 63.111(b) and therefore its approval of this variance request must be reversed.

Section 63.111(b) of the zoning code states “Buildings should be designed to fit into the hillside without significant regrading to protect the stability of the slope and preserve existing trees while preventing excessively tall retaining walls and unattractive trough-shaped yards between buildings and retaining walls. Multi-story buildings are encouraged to reduce the size of the building footprint.”

The proposed development is in direct violation of the intent and purpose of 63.111(b) which specifically outlines the reasons on which development on a steep slope is to be prohibited. Section 63.111(b) expressly states the intent of the ordinance, which is to avoid compromising the integrity of a steep slope, creation of large retaining walls, and creation of unattractive trough shaped yards. The proposed development would violated every provision of 63.111(b) and clearly is NOT “in harmony with the general purpose and intent of the zoning code” as set forth in 63.111. The granting of a variance request for this property should therefore be denied.

The proposed development is in complete violation of every component of the requirements of 63.111(b). As admitted by Trellis in its proposal, the development in question needs a variance from 63.111(b) because it seeks to perform significant regrading of a site whose slope varies between 45 and 70 degrees throughout the entire length of the property. It seeks to create a 350-foot long 15-foot tall retaining wall surrounding the development on three sides. To provide perspective, this retaining wall is approximately the size of a highway billboard sign that spans the length of an entire football field. It seeks to create a large “unattractive” trough shaped yard between the structure and the retaining wall. Finally, it proposes destroying dozens of existing trees. All of these proposals are in direct contradiction of the specific requirements and therefore are in contradiction of the intent of 63.111(b) which prohibits development on a steep slope.

Trellis seeks to violate every provision of 63.111(b) and provides no suggestion on how its proposed development meets the “general purpose and intent” of 63.111 as required by 61.601 to obtain a variance. Trellis does not seek a variance because its development is “in harmony with the general purposes and intent” of 63.111, it seeks a variance because its development is in direct violation of the requirements of 63.111. A variance that seeks to allow a use of the property in direct violation of city ordinance is not permitted.

In granting a variance from 63.111, the zoning commission made no finding that the proposed development was in harmony with 63.111(b) as required by 61.601 of the zoning code. Instead, granting of the variance was based on the opinion of Chair Reilly who stated that “we live in a city and cities change and develop constantly. This city is built on land that we stole from other people and we need to continue to provide housing to everyone which we cannot possibly do right now.” The fact that this land was historically stolen from the indigenous people of Minnesota does not provide justification for the violation zoning code section 63.111. A desire for housing or development is not a basis ignore the law and violate the express language and intent of the city law or the zoning code.

Not only is the proposed variance in stark violation of the general purpose and intent of the zoning code, the variance of 63.111 must be denied because development will alter the essential character of the surrounding area.

Quoting the findings of the Zoning Commission report on this matter from December 22, 2022: “The RM2 zoning is not consistent with the way the heavily wooded R1 bluff to the east, west, and north have been preserved and kept free from development.” The variance of 63.111 was approved because it was compared to the land to the south of the property that is both flat and zoned RM2 and not R1. The suggestion that the proposed development is consistent with the essential character of the surrounding area because 25% of the adjoining property which is NOT located on a steep slope houses a TWO-story building does not lead to the conclusion that a FIVE story, nearly 60 foot tall building surrounded on 3 sides by undeveloped portions of the Highland Bluff on a 70% slope is consistent with the character of the neighborhood flies in the face of logic. In no location on the entirety of the Highland Bluff is there a development with similar character to the proposed structure.

In the zoning commission’s report they similarly find: “Development of the property proposed for rezoning will result in a change to the wooded steep sloped site, which will be inconsistent with the undeveloped nature of the steep bluff portions of R1 properties to the north, east and west, but still compatible with the flatter abutting RM2 zoning district.” At every point the commission makes it a point that the proposed development is consistent only with development on nearby properties located on flatter ground. This is relevant because of the specific prohibitions on development of steep slopes as set forth in 63.111. Development on the slope is not the same as development on adjacent flat ground. The zoning commission’s conclusion might just have as easily stated that the development is consistent with the zoning law if the restrictions of Section 63.111 of the zoning code are ignored completely.

The proposed development is in direct violation of ordinance 63.111(b) and neither the developer or the Zoning Committee provided any findings or conclusions that the proposed development is in harmony with the general purposes and intent of 63.111(b) as is required for the granting of a variance under section 61.601 of the zoning code. In addition, the proposal of Trellis and the specific findings of the Zoning Committee state that this development is not consistent with the essential character of the surrounding area as required by 61.601. Finally, the proposed use of this development by Trellis would qualify this development as an adult care home as defined under section 65.151. The proposed development meets none of the requirements for an adult

care home as set forth in 65.151 and therefore the variance should be denied as in violation 61.601 which requires a variance to not permit any use that is not allowed in the zoning district where the affected land is located. For all of these reasons, the decision of the Zoning Commission to grant a variance and approve the site plan for the proposed development should be reversed.

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