

**From:** [Molly McGuire](#)  
**To:** [Jeffrey Almeter](#)  
**Cc:** [Dorothy Strand Gorman](#); [Michele Lorilla](#)  
**Subject:** RE: 2207-019-SUB2  
**Date:** Tuesday, March 21, 2023 11:52:00 AM

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Hi Jeff,

Based on the geotech report, and information from our geotechnical peer reviewer and building official, the existing rockery has a Factor of Safety that is less than standard, and the construction method used would not have been legal at the time of construction. According to Michele Lorilla, rockeries are not considered retaining walls, and are not used to retain fill. The fill is also loose, which indicates no compaction during original placement of this fill so it would be considered uncontrolled or unengineered fill.

Unfortunately, we would not be able to consider any work on the rockery to be ordinary repair and maintenance per MICC 19.01.050(B)(1): "Ordinary repairs and maintenance. Ordinary repairs and maintenance of a legally nonconforming structure are permitted. In no event may any repair or maintenance result in the expansion of any existing nonconformity or the creation of any new nonconformity". This is because the rockery was not constructed legally, and therefore, we cannot consider it legally nonconforming. The rockery would need to be constructed in compliance with current code, including compliance with height restrictions for fill slopes in required yards found in MICC 19.02.050.

Let me know if you have additional questions. I hope to finish up land use planning review early next week.

Sincerely,

[Molly McGuire](#)

Planner

City of Mercer Island – Community Planning & Development

206-275-7712 | [www.mercerisland.gov](http://www.mercerisland.gov)

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**From:** Jeffrey Almeter <[jeffrey.almeter@gmail.com](mailto:jeffrey.almeter@gmail.com)>  
**Sent:** Thursday, March 16, 2023 5:17 PM  
**To:** Molly McGuire <[molly.mcguire@mercerisland.gov](mailto:molly.mcguire@mercerisland.gov)>; Dorothy Strand Gorman <[kcra2005@yahoo.com](mailto:kcra2005@yahoo.com)>  
**Subject:** 2207-019-SUB2

Molly,

I think you're the best person to answer this question, but please let me know if not. In speaking

with our geotech (Marc McGinnis) we understand that there's a request from Michele Lorilla to address a retaining wall on the site that is outside the limits of construction. From what was relayed to me, and why I'm asking you, it sounds like this is something that's coming from the planning end of things as far as the code is concerned rather than building or geotech per se. Obviously this is a pretty big item both in time and cost to address and we want to fully understand what it entails. We've intentionally set the location of the proposed work away from this retaining wall per our geotech reports recommendations so as to avoid any impact on the existing wall. So two overall questions;

1. I'm not aware of previous projects (single family homes) that have been required to mitigate the entire site especially outside construction limits so is this a new code requirement that we may not be aware of?
2. If this has been a requirement of other recent projects, are there any that you could share publicly available information so that we can understand what sort of measures were undertaken, mostly so that the owner (copied here) can see what this might look like?

Thank you for your time, and please let me know if you have any questions.

Best,  
Jeff