

EX. 1098

1/34

Jimmi Serfling

From: Jimmi Serfling
Sent: Friday, February 02, 2018 2:25 PM
To: 'Shane Miller'
Cc: David Henderson; Evan Maxim; Don Cole; Alison VanGorp
Subject: Stop Work Order Posted

Shane,

The Stop Work Order was posted today 2/2/2018 at 11:18am. No further work toward completing the retaining wall project or the project within the lake waters of moving rocks and disturbance of the lake bed until such time that you have been issued the proper permits and approvals from the City of Mercer Island and any WA state agencies involved with work in the shoreline buffers and within the State waters.

EXCEPTION

Work to perform temporary stability and erosion control measures may take place during this week-end (2/2/18 – 2/4/18) under the supervision of a WA State registered GEO Technical Engineer.

I would like to meet with you on site, on Monday 2/5/2018, to follow up on the Stop Work Order, view information from the GEO Tech and observe the steps taken for erosion control and stability measures.

The expectation is that you will submit all required documents and applications within the next week or two at the most. At minimum you will need to submit for Shoreline Exemption and SEPA using the Environmental Checklist. This is for the work you have done in the water by moving the rocks and may also be needed for the retaining wall rebuild you are doing on the shoreline.

You will need a building permit application for the retaining wall and include GEO Technical reports, engineered drawings of the retaining wall design. The drawings should define how the wall is constructed and what type of drainage system will be used. Depending on the scope of the project you may also need a critical area determination.

Regards,

Jimmi Serfling

City of Mercer Island Code Compliance
206-275-7709

*** Working part-time, I am in the office on Mondays, Wednesdays and Fridays.**

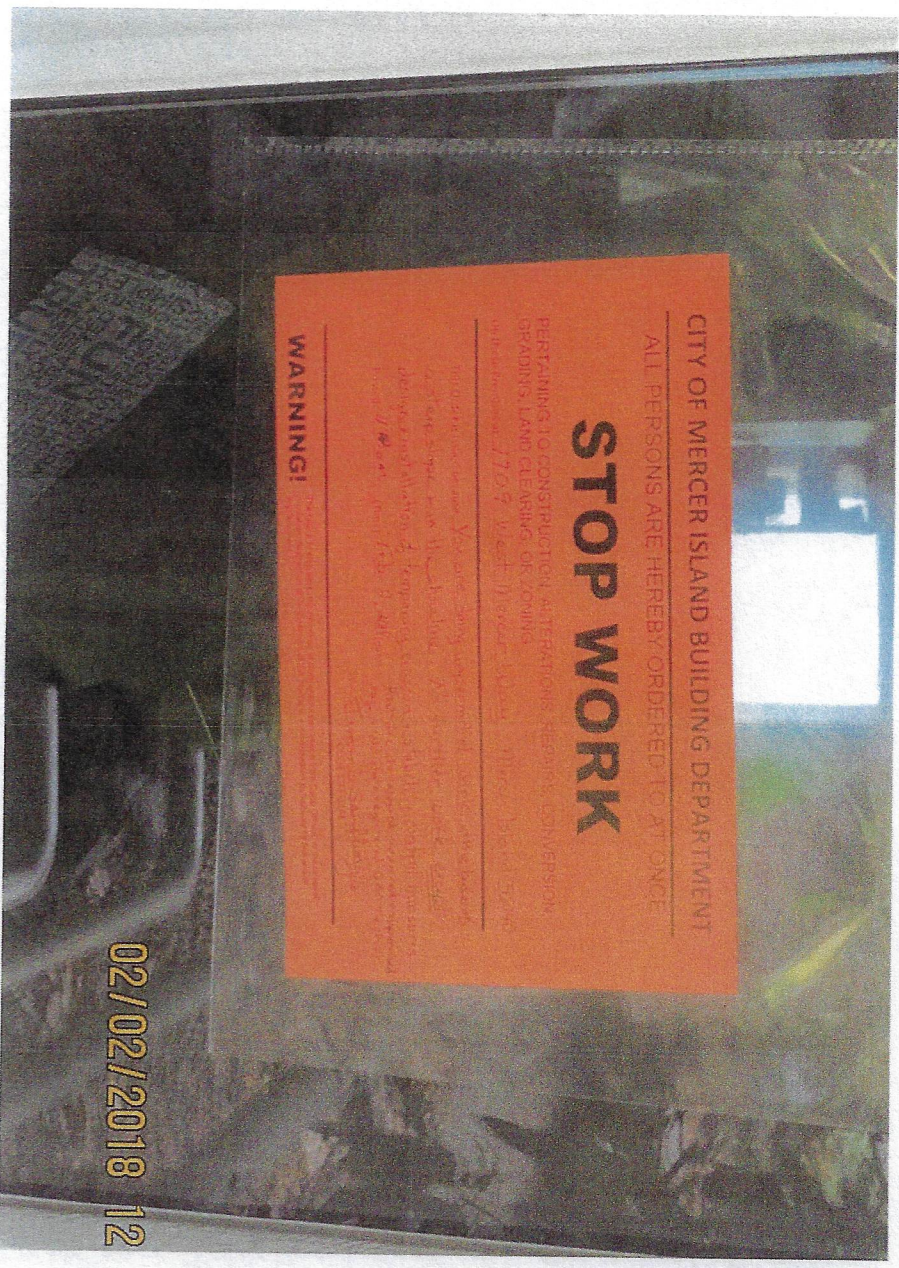
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Ex. 1098
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EX. 1098
4/34



4

Ex. 1098
5-34

CE 18-0017
2.2.18 /

Jimmi Serfling

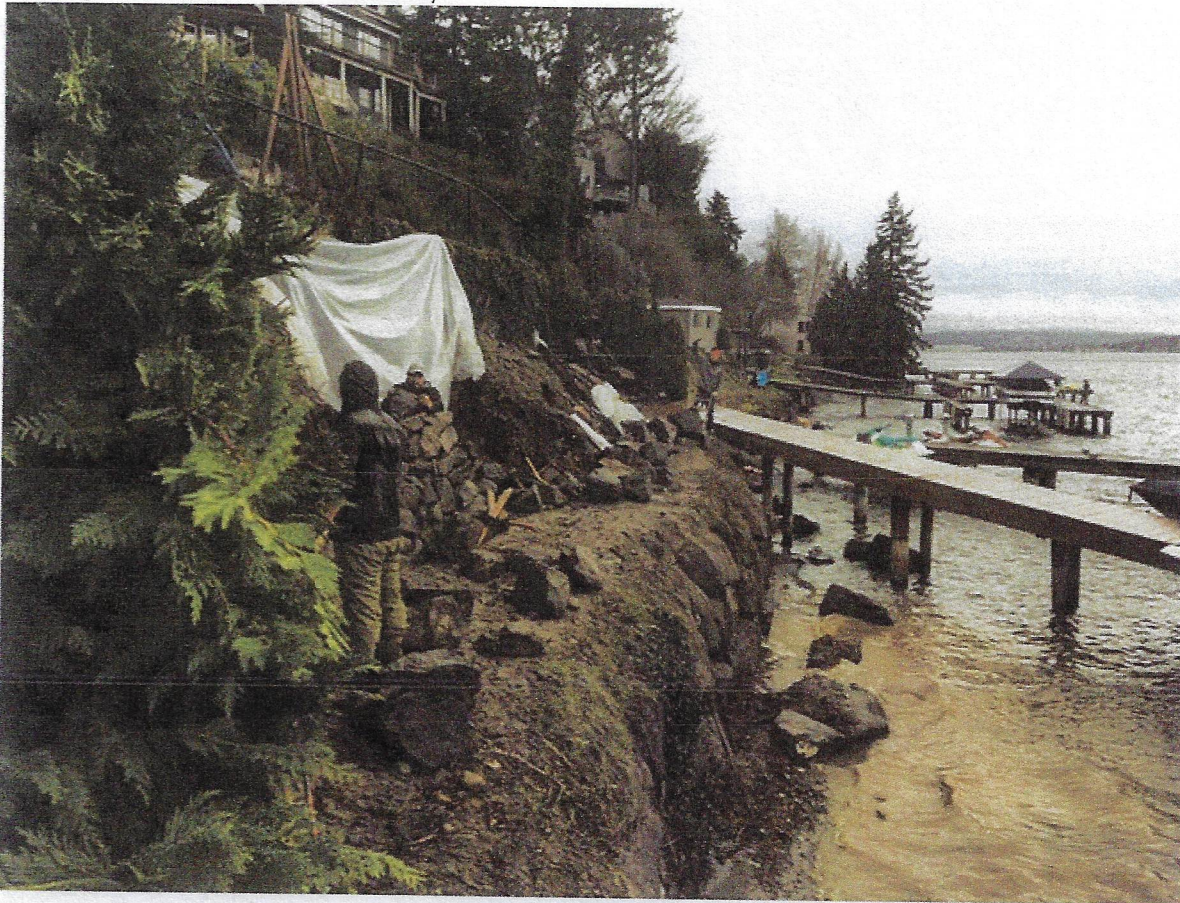
From: William Gartz <william.gartz@gmail.com>
Sent: Friday, February 02, 2018 9:59 AM
To: Jimmi Serfling
Subject: Miller Violations

Jimmi,

I'm following up my email yesterday with a photo of the shoreline work. Once again Mr. Miller is flouting the City of Mercer Island codes to protect safety and the environment by doing work for which he does not have a permit, but also does not meet the code. This work is done without any erosion control, and I have seen the workers dump material into the lake. This work should be IMMEDIATELY RED TAGGED to stop further construction. Otherwise, once it's complete I know the city will do nothing.

He also needs a permit for his new gate across the driveway which I believe trespasses across our property line. The permit requires he provides a survey to prove his work does not trespass.

I hope you will take action immediately.



William F. Gartz, AIA | NCARB
President | Managing Director

Global Design Strategies

5

Millers GEO TECA
Phil Haberman
206-331-1097

EX. 1098

Jimmi Serfling

From: William Gartz <william.gartz@gmail.com>
Sent: Thursday, February 01, 2018 10:22 AM
To: Jimmi Serfling
Subject: Code violations

6/34

Categories: HANDLE NOW!, Take action

Hi Jimmi,

We are wrapping up the landscape for our permit along the shoreline. We should have final inspection in the next couple of weeks.

However, I notice our neighbor Mr. Miller is doing construction work along the shoreline within the 25' setback. I suspect it is without a permit because none of his site work has had a permit. Which, of course, the city still has done nothing about.

Mr. Miller also constructed a gate to his property across the driveway. I suspect that also was done without a permit and I believe his work trespasses onto our property. Can you please confirm that Mr. Miller has a permit for all the work he is doing and has done, and confirm that his new gate was surveyed and is shown to be located entirely on his property.

Thank you.

William F. Gartz, AIA | NCARB
President | Managing Director

Global Design Strategies

7703 W. Mercer Way
Mercer Island, WA 98040
C | 206-295-1987
E | william.gartz@gmail.com

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Jimmi Serfling

EX. 1098

7/34

From: Jimmi Serfling
Sent: Friday, February 02, 2018 10:10 AM
To: 'William Gartz'
Subject: RE: Miller Violations

Just got your first email this morning and now this one. The picture is very helpful.

On my way out there.

Thank you,

Jimmi Serfling

City of Mercer Island Code Compliance
206-275-7709

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From: William Gartz [mailto:william.gartz@gmail.com]
Sent: Friday, February 02, 2018 9:59 AM
To: Jimmi Serfling <Jimmi.Serfling@mercergov.org>
Subject: Miller Violations

Jimmi,

I'm following up my email yesterday with a photo of the shoreline work. Once again Mr. Miller is flouting the City of Mercer Island codes to protect safety and the environment by doing work for which he does not have a permit, but also does not meet the code. This work is done without any erosion control, and I have seen the workers dump material into the lake. This work should be IMMEDIATELY RED TAGGED to stop further construction. Otherwise, once it's complete I know the city will do nothing.

He also needs a permit for his new gate across the driveway which I believe trespasses across our property line. The permit requires he provides a survey to prove his work does not trespass.

I hope you will take action immediately.

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Jimmi Serfling

EX. 1098

8/34

From: Bill Gartz <william.gartz@gmail.com>
Sent: Sunday, February 04, 2018 12:33 PM
To: Jimmi Serfling
Subject: Erosion

There continues to be erosion into Lake Washington from their work.



William F. Gartz, AIA, NCARB

Sent from my iPhone
Apologies for no spell check and typos.

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Jimmi Serfling

EX. 1098

From: Jimmi Serfling
Sent: Monday, February 05, 2018 8:13 AM
To: 'William Gartz'
Subject: RE: Mr. Miller

9/34

Bill,

There is a stop work order with the exception that he was allowed to make temporary stability and erosion control measures over the week end. Your photo would indicate that erosion was not controlled.

I am scheduled to make a site visit this morning.

I did ask him about the gate. He claims it is on his property. I will be looking into the fence regarding land use codes but not from property line perspective. It appears to be a manual gate so a building permit may not be required.

Mr. Miller now has 3 outstanding code cases that the City will be continuing to address.

Jimmi Serfling

City of Mercer Island Code Compliance
206-275-7709

* Working part-time, I am in the office on Mondays, Wednesdays and Fridays.

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From: William Gartz [mailto:william.gartz@gmail.com]
Sent: Sunday, February 04, 2018 9:41 AM
To: Jimmi Serfling <Jimmi.Serfling@mercergov.org>
Subject: Mr. Miller

Jimmi

I understand you or another city official came by Mr. Miller's property on Friday to check out his construction along the shoreline. I'm not sure of the conversation, but they have continued to work over the weekend. What is the status? And did you discuss the gate that is trespassing and all their other code violations (i.e. all the site work without permit, geotech or lot coverage calculations)?

William F. Gartz, AIA | NCARB
President | Managing Director

Global Design Strategies

7703 W. Mercer Way
Mercer Island, WA 98040
C | 206-295-1987
E | william.gartz@gmail.com

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EX.1098
10/34

ERTS # 678994

Initial Report

External Reference #

Caller Information

Where did it happen

First Name	WILLIAM	Last Name	GARTZ	Berth		Anchorage	
Business Name		Location Name		Street Address	7709 W MERCER WAY		
Street Address		Other Address		City/Place	MERCER ISLAND	State	WA Zip 98040
Other Address		City	WA	County - Region	KING	NWRO	FS ID
E-mail		State	WA	Zip			
Phone	(206) 295-1987	Ext		Type	Home	Confidential_FL	<input type="checkbox"/>
				Waterway		Latitude	Longitude
				Topo Quad 1:24:000	MERCER ISLAND		

What happened

Spills Program Oil Spill? N

Direction/Landmark (mile post, cross roads, township/range)

Incident Date 2/2/2018 Received Date 2/2/2018 10:03

Medium

Material MUD/SILT
Quantity Unit

Primary Potentially Responsible Party Information

First Name U Last UNKNOWN

Source DOMESTIC

Cause SOIL EROSION

Activity OTHER CONSTRUCTION

Impact WATER POLLUTION

Vessel Name

Hull Number

Business Name
Street Address
Other Address
City State WA Zip
Phone Ext Type
E-mail

Additional Contact Information

Name Phone Ext Type

More Information

REPORT CAME FROM EMD AT 10:03. REPORTING PARTY HAS A NEIGHBOR WHO IS DOING CONSTRUCTION NEAR A BULK HEAD. DUE TO CONSTRUCTION THERE IS EROSION GOING INTO LAKE WASHINGTON. AMOUNT AND NAME OF RESPONSIBLE PARTY IS UNKNOWN.

Entry Person Fritzen, Madeline

Entry Date 2/2/2018

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Jimmi Serfling

EX. 1098

11/34

From: Nicole Gaudette
Sent: Friday, February 02, 2018 1:48 PM
To: Jimmi Serfling
Cc: Robin Proebsting
Subject: FW: You've got ERTS! 678994
Attachments: ertsReferral.pdf

Importance: High

Here is the ERTS notice.

From: Blair, Misty (ECY) [mailto:mbla461@ECY.WA.GOV]
Sent: Friday, February 2, 2018 1:23 PM
To: Nicole Gaudette <nicole.gaudette@mercergov.org>
Cc: Robin Proebsting <robin.proebsting@mercergov.org>
Subject: FW: You've got ERTS! 678994
Importance: High

Nicole,

Ecology has received a report of an environmental issue located at 7709 W Mercer Way.

I have attached the formal complaint that we received; however it is not very detailed and may not be very informative.

The complaint describes construction near a bulkhead causing erosion to enter Lake Washington. I think the complaint is also being send on to your Water Quality department, but I wanted to also make you aware to ensure that any work occurring on the site is consistent with an active shoreline permit or exemption.

Please let me know if I can be of any assistance in this matter.

Misty Blair | Senior Shoreline Planner | S.E.A. Program | Northwest Regional Office |
WA Department of Ecology | P 425-649-4309 | misty.blair@ecy.wa.gov

This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From: ECY RE NWRO ERTS
Sent: Friday, February 02, 2018 11:22 AM
To: Shoblom, Tricia (ECY) <TSHO461@ECY.WA.GOV>; Blair, Misty (ECY) <mbla461@ECY.WA.GOV>; Buen Abad, Luis (ECY) <LABA461@ECY.WA.GOV>; Crotty, Colleen (ECY) <ccro461@ECY.WA.GOV>; Dobrowski, Evan (ECY) <EDOB461@ECY.WA.GOV>; Stegman, Greg (ECY) <GSTE461@ECY.WA.GOV>; Zeman, Maria (ECY) <MZEM461@ECY.WA.GOV>
Subject: You've got ERTS! 678994
Importance: High

The incident number 678994 has been referred to you. Please follow up.

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Jimmi Serfling

EX. 1098

12/34

From: Nicole Gaudette
Sent: Friday, February 02, 2018 1:49 PM
To: Blair, Misty (ECY)
Cc: Robin Proebsting; Jimmi Serfling
Subject: RE: You've got ERTS! 678994

Thank you Misty. Our code enforcement officer is aware of this situation and has opened an enforcement case. Her name is Jimmi Serfling and she is cc'd with this email.

From: Blair, Misty (ECY) [mailto:mbla461@ECY.WA.GOV]
Sent: Friday, February 2, 2018 1:23 PM
To: Nicole Gaudette <nicole.gaudette@mercergov.org>
Cc: Robin Proebsting <robin.proebsting@mercergov.org>
Subject: FW: You've got ERTS! 678994
Importance: High

Nicole,

Ecology has received a report of an environmental issue located at 7709 W Mercer Way.

I have attached the formal complaint that we received; however it is not very detailed and may not be very informative.

The complaint describes construction near a bulkhead causing erosion to enter Lake Washington. I think the complaint is also being send on to your Water Quality department, but I wanted to also make you aware to ensure that any work occurring on the site is consistent with an active shoreline permit or exemption.

Please let me know if I can be of any assistance in this matter.

Misty Blair | Senior Shoreline Planner | S.E.A. Program | Northwest Regional Office |
[WA Department of Ecology](mailto:misty.blair@ecy.wa.gov) | P 425-649-4309 | misty.blair@ecy.wa.gov

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From: ECY RE NWRO ERTS
Sent: Friday, February 02, 2018 11:22 AM
To: Shoblom, Tricia (ECY) <TSHO461@ECY.WA.GOV>; Blair, Misty (ECY) <mbla461@ECY.WA.GOV>; Buen Abad, Luis (ECY) <LABA461@ECY.WA.GOV>; Crotty, Colleen (ECY) <ccro461@ECY.WA.GOV>; Dobrowski, Evan (ECY) <EDOB461@ECY.WA.GOV>; Stegman, Greg (ECY) <GSTE461@ECY.WA.GOV>; Zeman, Maria (ECY) <MZEM461@ECY.WA.GOV>
Subject: You've got ERTS! 678994
Importance: High

The incident number 678994 has been referred to you. Please follow up.

12

Jimmi Serfling

EX. 1098
13/34

From: shane_miller_usa <shane_miller_usa@yahoo.com>
Sent: Monday, February 05, 2018 8:45 AM
To: Jimmi Serfling
Cc: David Henderson; Evan Maxim; Don Cole; Alison VanGorp; shanemillerus@gmail.com
Subject: Re: Stop Work Order Posted

Jimmi, a few comments:

- 1) there is no work occurring currently, pending, or anticipated during the foreseeable future. Work last week was limited to yard maintenance. See photo attached of the subject area from the same vantage point as the photo provided by the neighbor. Everything you see in the photo has existed since the 1980s when it was built (dock, bulkhead, concrete path, landscape wall, etc)
- 2) the lake water is very clean and clear. See same photo.
- 3) there is not any dirt / debris entering the lake from my property because everything is clean, stable and secure.
- 4) small amount of sandy dirt debris was coming from a different source. Specifically, a large approx 35 foot derelict boat is poorly moored insecurely at the south neighbor dock and was grounding out on the lakebed during large wave action. Also at that dock are a severely damaged boat lift and mooring rope system which are scraping the lake bottom during waves. Note that neighbor's mooring situation is temporary and has been recently improved. See photo.
- 5) I had talked with you Friday about sliding bulkhead boulders thereby returning the boulders where they belong - up against the bulkhead. This work didn't occur and is canceled. See same photo showing ~5 boulders remain unmoved and situated a few feet water-ward of the bulkhead.
- 6) the driveway gate is entirely on my property. I hired Group4 Inc licensed surveyors to place capped rebar survey markers and ran a string line between the relevant markers. The gate is entirely on my side of this surveyed boundary. The gate is manual and always in the open position.
- 7) a licensed geotech engineer visited the property and saw no issues. Work limited to just landscape maintenance. No permit needed.
- 8) unfortunately the neighbor is bitter and vengeful for a variety of issues including because of trees that I had planted for privacy. He has been served multiple Cease and Desist Orders from my attorney for exactly this type of harassing behavior. I believe you have copies of these letters already. King County Superior Court had ordered him to return property to its rightful owner (his other neighbor) and pay sanctions totaling ~\$40,000. Recall that you had previously entered written findings that he is not credible. I think he may have altered the image provided.

May we please get together to discuss? Please let me know what day / time works for your schedule. I can meet at your office or at our home where you may see everything firsthand. I look forward to working with you.

Sincerely,
Shane
(206) 910-8443

EX. 1098

14/34



14

EX. 1098
15/34

Michael Lee
Landscape Architect
4010 SW 106th Street
Seattle, Washington 98146
206.749.9508
colvos@gmail.com

February 6, 2018

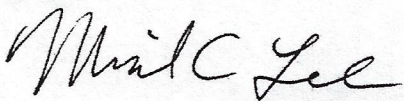
TO: City of Mercer Island

I am writing to provide background for the retaining wall and planting work above the shoreline at the Shane Miller property. I am the designer of the slope improvements at that location.

Mr. Miller showed me the site two years ago and asked me to design a replacement for the failing timber wall, which I understand is at least 30 years old. Also, the plantings there were in poor condition and not suited to the site nor good for soil erosion control.

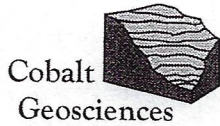
The owner has followed my suggestions exactly. The stone wall is a much better replacement for the rotting wood and will hold the slope long term. The plants chosen will hold the soil well without supplemental watering, and the owner has even added to the number of groundcover plants I recommended. These will prevent erosion.

In summary, I believe the slope in question is in much better shape now and that overall erosion into the lake will be largely eliminated. I would characterize the project scope as little more than simple landscape maintenance, which should be expected periodically and which would not typically require a permit.



Michael Lee

15



EX. 1098
16/34
P.O. Box 82243
Kenmore, Washington 98028
(206) 331-1097

Date: 2/9/18 **Project:** 7709 W. Mercer Way **Job No.:** 2018-031
Contractor: None **Location:** Mercer Island, WA **Weather:** Clouds, 50

Observations:

At your request and authorization, Cobalt Geosciences, LLC was on site to observe completed erosion control placement over the affected portion of the slope area above the shoreline at the reference property.

We observed that the facing of a timber wall had been replaced with stacked stone. Mulch and plants have been placed in the areas and we understand that a landscape architect is involved in the overall planting design and schedule.

In general, the current stone facing is more suitable than the previous railroad tie landscaping wall. The railroad tie landscaping wall was approximately 30-40 years old, and was not an engineered structure. The railroad tie wood was badly decomposed and had been heavily treated with creosote, which should not have remained near the lake environment. In other words, there is no net negative effect on slope stability, erosion or the environment in the area of the recent work.

Given the former landscape wall was not an engineered structure to begin with and the scope of work was limited to yard maintenance to repair the decomposed wall timbers, the new rock facing is consistent with a landscaping wall replacement.

The addition of approximately 70 large cypress trees, 60 arborvitae trees and many other additional trees and plants have and will improve surface slope stability and erosion control.

Cobalt Geosciences, LLC

Phil Haberman, PE, LG, LEG
Principal
(206) 331-1097
cobaltgeo@gmail.com

PH/sc

Jimmi Serfling

EX. 1098

17/34

From: Shane Miller <shane_miller_usa@yahoo.com>
Sent: Wednesday, February 14, 2018 2:56 PM
To: Jimmi Serfling
Cc: David Henderson; Evan Maxim; Don Cole; Alison VanGorp; shanemillerus@gmail.com
Subject: Re: Stop Work Order Posted - Follow-up re: 2/12 Courtesy Notice and 2/14 Onsite Meeting

Jimmi,

I hope you found today's onsite meeting helpful, including getting to hear in-person from experts such as the Licensed Geotechnical Engineer (Mr. Haberman) and Licensed Architect (Mr. Lee).

I'm in receipt of your Code Compliance Courtesy Notice dated February 12, 2018. However, the Notice does not appear to reflect the results of today's February 14, 2018 meeting nor the letter from Mr. Haberman, which was also provided today. For example, specifically:

- 1) The first sentence says there is wall construction taking place within the shoreline area, which is inaccurate. All work occurred well above and away from the shoreline, and the work was completed in a single day on or about February 2nd. You had received completed photos on or about February 5th, and witnessed the work in-person during today's meeting.
- 2) The first sentence also says that dirty water entered Lake Washington, which is inaccurate. I had provided photographs showing and explaining otherwise, and I believe you understood the explanations and photos shown.
- 3) The second sentence refers to lack of permits and property line issues for a driveway gate. Together we measured the gate and confirmed the height is less than 72 inches, and therefore we agreed there are no longer any code, permit or property line issues currently under Code Enforcement investigation for the driveway gate.
- 4) We both know that walls above the shoreline had existed previously. Both the Geotech Engineer and Architect wrote in their letters about the state of the preexisting wood walls. Their letters also explicitly find the work limited to "yard maintenance", which it was. I think Gareth may have also agreed the work was limited to yard maintenance. Therefore, we have 2-3 engineers and 1 architect *all* calling it yard maintenance. Therefore, I believe these issues are addressed by the letters from Mr. Lee and Mr. Haberman and the results of today's in-person, onsite review of the subject area.
- 5) The Notice goes on to repeat allegations about work in the shoreline area and dirt/mud. Again, no work occurred in the shoreline area because it was above and away from the shoreline area, and no dirt/mud entered the Lake.
- 6) The MI Shoreline Ordinance No 13C-12 Page 4 says, "uses and structures twenty five (25) feet landward from the OHWM, which were legally created may be maintained, repaired, renovated, remodeled and completely replaced to the extent that non-conformance with the standards and regulations of this Section is not increased."

It's unfortunate the neighbor is upset about 70 cypress trees and a driveway gate that were added for privacy, and that his frustration manifests itself through false reporting and fraud-based harassment. Recall the fact you had previously written an email to Mr. Kirby Christian stating this neighbor is not credible due to many other false code complaints he had previously submitted to your office. Enough is enough with his false complaints.

I don't believe there are any issues that remain outstanding following the information provided to date (Haberman and Lee letters) and the results of today's onsite meeting. I thank you for coming out today, and will look forward to working with you as appropriate.

Sincerely,

Shane

EX. 1098
18/34

On Feb 14, 2018, at 8:17 AM, Jimmi Serfling <Jimmi.Serfling@mercergov.org> wrote:

Today I received the attached letter dated 2/9/18 from Cobalt Geosciences

Thank you,

Jimmi Serfling

City of Mercer Island Code Compliance
206-275-7709

* Working part-time, I am in the office on Mondays, Wednesdays and Fridays.

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From: shane miller [<mailto:shanemillerus@gmail.com>]

Sent: Wednesday, February 14, 2018 8:12 AM

To: Shane yahoo email <shane_miller_usa@yahoo.com>

Cc: Jimmi Serfling <Jimmi.Serfling@mercergov.org>; David Henderson <david.henderson@mercergov.org>; Evan Maxim <evan.maxim@mercergov.org>; Don Cole <Don.Cole@mercergov.org>; Alison VanGorp <alison.vangorp@mercergov.org>; shanemillerus@gmail.com

Subject: Re: Stop Work Order Posted - Letter from the Licensed Architect

Jimmi,

Please see attached letter from Licensed Geotechnical Engineer of Cobalt Geosciences Inc., Mr. Phil Haberman, PE, LG, LEG.

Note that Mr. Haberman finds the stone wall is more suitable than the previous wood landscaping wall. He also finds there has been no net negative effect on slope stability, erosion or the environment.

Mr. Haberman's letter calls the scope of work limited to yard maintenance.

Lastly, Mr. Haberman finds that addition of 70 large cypress trees, 60 arborvitae trees and addition of many other new trees and plants have and will improve slope stability and erosion control.

Please confirm receipt of the letter from Mr. Haberman. I look forward to meeting with you onsite today at 10:00 a.m. I have arranged for Mr. Lee and Mr. Haberman to join us.

Sincerely,
Shane
(206) 910-8443

On Feb 7, 2018, at 8:21 AM, Shane Miller <shane_miller_usa@yahoo.com> wrote:

Jimmi,

Jimmi Serfling

EX. 1098

12/34

From: Gareth Reece
Sent: Wednesday, February 14, 2018 4:42 PM
To: 'shane_miller_usa@yahoo.com'; 'shanemillerus@gmail.com'
Cc: Jimmi Serfling; David Henderson; Evan Maxim; Don Cole; Alison VanGorp; 'Phil Haberman'
Subject: FW: Stop Work Order Posted - Follow-up re: 2/12 Courtesy Notice and 2/14 Onsite Meeting
Attachments: Stop Work close up.jpg

Good afternoon Shane,

Your point #4 below is not an accurate or complete representation of my statement on site. The I believe the section that you referenced is MICC 19.07.110.B.1:

Legal Nonconforming Uses and Structures May Continue. Overwater uses and structures, and uses and structures 25 feet landward from the OHWM, which were legally created may be maintained, repaired, renovated, remodeled and completely replaced to the extent that nonconformance with the standards and regulations of this section is not increased.

Title 19 of our City Code is the Unified Land Use Development Code, which is not generally my scope to review. You copied our Planning Manager, Evan Maxim, on your email who should be able to give you guidance on the land use implications of your project if you provide him with the scope of work.

My statement in response to your presenting MICC 19.07.110.B.1 was that regardless of any land use determination, you are subject to our City Code Title 17, which is Construction Codes. Section 17.14.105.1 of that document is the following:

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the construction codes and the Construction Administrative Code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

There is a series of specific exceptions to this broad requirement in section 105.2. Your project as you described it in our meeting and as I later observed it on the property did not meet any of these sections. My determination based on the site visit is that you have at minimum performed unpermitted work to modify a Geologic Hazard Area. Properties under this designation have very specific additional requirements which you can find in MICC 19.07.060. The Stop Work Notice (which I've attached for reference) was posted correctly and refers to this. The Stop Work notice does allow you to install temporary erosion and stability control measures under the supervision of a geotech. Your geotech Phil Haberman with Cobalt Geosciences, who I've copied, oversaw this work and stated to me on site that the work you completed meets his requirements for temporary measures to control erosion and stabilize the site. This does not in any way resolve the unpermitted work which has occurred, or allow the removal of the Stop Work, but it does exhaust the work which was allowed to proceed under the Stop Work.

Please do no further work regulated by section 105.1 and proceed with the application for a building permit to resolve the Stop Work Notice.

Sincerely,

Gareth Reece
Senior Plans Examiner

19

City of Mercer Island Development Services
9611 SE 36th Street
Mercer Island WA 98040-3732

p: 206.275.7710
f: 206.275.7726
e: gareth.reece@mercergov.org

EX. 1098
20/34



View the status of permits at www.mybuildingpermit.com
View information for a geographic area at
<http://pubmaps.mercergov.org/geocortex/essentials/web/Viewer.aspx?Site=MercerIslandPublic&ReloadKey=True>
View application and other zoning information at <http://www.mercergov.org/Page.asp?NavID=361>

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From: Jimmi Serfling
Sent: Wednesday, February 14, 2018 3:46 PM
To: Gareth Reece <gareth.reece@mercergov.org>
Subject: FW: Stop Work Order Posted - Follow-up re: 2/12 Courtesy Notice and 2/14 Onsite Meeting

Please read this email from Shane Miller.

Jimmi Serfling
City of Mercer Island Code Compliance
206-275-7709

*** Working part-time, I am in the office on Mondays, Wednesdays and Fridays.**

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From: Shane Miller [mailto:shane_miller_usa@yahoo.com]
Sent: Wednesday, February 14, 2018 2:56 PM
To: Jimmi Serfling <Jimmi.Serfling@mercergov.org>
Cc: David Henderson <david.henderson@mercergov.org>; Evan Maxim <evan.maxim@mercergov.org>; Don Cole <Don.Cole@mercergov.org>; Alison VanGorp <alison.vangorp@mercergov.org>; shanemillerus@gmail.com
Subject: Re: Stop Work Order Posted - Follow-up re: 2/12 Courtesy Notice and 2/14 Onsite Meeting

Jimmi,

I hope you found today's onsite meeting helpful, including getting to hear in-person from experts such as the Licensed Geotechnical Engineer (Mr. Haberman) and Licensed Architect (Mr. Lee).

I'm in receipt of your Code Compliance Courtesy Notice dated February 12, 2018. However, the Notice does not appear to reflect the results of today's February 14, 2018 meeting nor the letter from Mr. Haberman, which was also provided today. For example, specifically:

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1) The first sentence says there is wall construction taking place within the shoreline area, which is inaccurate. All work occurred well above and away from the shoreline, and the work was completed in a single day on or about February 2nd. You had received completed photos on or about February 5th, and witnessed the work in-person during today's meeting.

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2) The first sentence also says that dirty water entered Lake Washington, which is inaccurate. I had provided photographs showing and explaining otherwise, and I believe you understood the explanations and photos shown.

3) The second sentence refers to lack of permits and property line issues for a driveway gate. Together we measured the gate and confirmed the height is less than 72 inches, and therefore we agreed there are no longer any code, permit or property line issues currently under Code Enforcement investigation for the driveway gate.

4) We both know that walls above the shoreline had existed previously. Both the Geotech Engineer and Architect wrote in their letters about the state of the preexisting wood walls. Their letters also explicitly find the work limited to "yard maintenance", which it was. I think Gareth may have also agreed the work was limited to yard maintenance. Therefore, we have 2-3 engineers and 1 architect *all* calling it yard maintenance. Therefore, I believe these issues are addressed by the letters from Mr. Lee and Mr. Haberman and the results of today's in-person, onsite review of the subject area.

5) The Notice goes on to repeat allegations about work in the shoreline area and dirt/mud. Again, no work occurred in the shoreline area because it was above and away from the shoreline area, and no dirt/mud entered the Lake.

6) The MI Shoreline Ordinance No 13C-12 Page 4 says, "uses and structures twenty five (25) feet landward from the OHWM, which were legally created may be maintained, repaired, renovated, remodeled and completely replaced to the extent that non-conformance with the standards and regulations of this Section is not increased."

It's unfortunate the neighbor is upset about 70 cypress trees and a driveway gate that were added for privacy, and that his frustration manifests itself through false reporting and fraud-based harassment. Recall the fact you had previously written an email to Mr. Kirby Christian stating this neighbor is not credible due to many other false code complaints he had previously submitted to your office. Enough is enough with his false complaints.

I don't believe there are any issues that remain outstanding following the information provided to date (Haberman and Lee letters) and the results of today's onsite meeting. I thank you for coming out today, and will look forward to working with you as appropriate.

Sincerely,
Shane

On Feb 14, 2018, at 8:17 AM, Jimmi Serfling <Jimmi.Serfling@mercergov.org> wrote:

Today I received the attached letter dated 2/9/18 from Cobalt Geosciences

Thank you,

Jimmi Serfling

City of Mercer Island Code Compliance
206-275-7709

* Working part-time, I am in the office on Mondays, Wednesdays and Fridays.

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From: shane miller [<mailto:shanemillerus@gmail.com>]
Sent: Wednesday, February 14, 2018 8:12 AM
To: Shane yahoo email <shane_miller_usa@yahoo.com>
Cc: Jimmi Serfling <Jimmi.Serfling@mercergov.org>; David Henderson <david.henderson@mercergov.org>; Evan Maxim <evan.maxim@mercergov.org>; Don Cole <Don.Cole@mercergov.org>; Alison VanGorp <alison.vangorp@mercergov.org>; shanemillerus@gmail.com
Subject: Re: Stop Work Order Posted - Letter from the Licensed Architect

Jimmi,

Please see attached letter from Licensed Geotechnical Engineer of Cobalt Geosciences Inc., Mr. Phil Haberman, PE, LG, LEG.

Note that Mr. Haberman finds the stone wall is more suitable than the previous wood landscaping wall. He also finds there has been no net negative effect on slope stability, erosion or the environment.

Mr. Haberman's letter calls the scope of work limited to yard maintenance.

Lastly, Mr. Haberman finds that addition of 70 large cypress trees, 60 arborvitae trees and addition of many other new trees and plants have and will improve slope stability and erosion control.

Please confirm receipt of the letter from Mr. Haberman. I look forward to meeting with you onsite today at 10:00 a.m. I have arranged for Mr. Lee and Mr. Haberman to join us.

Sincerely,
Shane
(206) 910-8443

On Feb 7, 2018, at 8:21 AM, Shane Miller <shane_miller_usa@yahoo.com> wrote:

Jimmi,

Please find attached letter from the Licensed Architect, Mr. Mike Lee.

Mr. Lee states in the letter that I followed his plans exactly, the scope of work was limited to simple yard maintenance, and that the work would typically not require a permit.

I would be happy to make time for you to meet with Mr. Lee should you have questions or to discuss.

Please confirm receipt of the letter from Mr. Lee.

Sincerely,
Shane
(206) 910-8443
<Architect Letter.pdf>

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23/34

On Feb 6, 2018, at 10:24 PM, Jimmi Serfling
<Jimmi.Serfling@mercergov.org> wrote:

Yes I have a copy of this Ecology complaint.

Thank you,

Jimmi Serfling

City of Mercer Island Code Compliance
206-275-7709

*** Working part-time, I am in the office on Mondays, Wednesdays
and Fridays.**

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From: shane_miller_usa [mailto:shane_miller_usa@yahoo.com]
Sent: Tuesday, February 06, 2018 7:15 AM
To: Jimmi Serfling <Jimmi.Serfling@mercergov.org>
Cc: Jimmi Serfling <Jimmi.Serfling@mercergov.org>; David Henderson <david.henderson@mercergov.org>; Evan Maxim <evan.maxim@mercergov.org>; Don Cole <Don.Cole@mercergov.org>; Alison VanGorp <alison.vangorp@mercergov.org>
Subject: Re: Stop Work Order Posted

Jimmi, the complaint you received from the Dept of Ecology is from a complaint made by Mr. Gartz to the Dept of Ecology. No one other than him complained. See below:

<image001.png>

Sent from my iPhone

On Feb 5, 2018, at 2:33 PM, Shane miller <shanemillerus@gmail.com> wrote:

Jimmi, it's simple yard maintenance. Yard was cleaned by hauling all yard debris to the dump. I have records proving. I can show you records and site Friday at 11:00. Additionally, over the years I've planted many hundreds of trees and plants which, along with an engineered

wall across the width of the entire property, increased stability to record levels. I look forward to meeting.
Sincerely, Shane

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Sent from my iPhone

On Feb 5, 2018, at 2:23 PM, Jimmi Serfling
<Jimmi.Serfling@mercergov.org> wrote

Shane,
The Stop Work Order Remains in place. The work you did on the retaining wall is above and beyond simple yard maintenance. You will need to submit for a building permit, Shoreline exemption and possibly SEPA. I received notice from the Dept of Ecology regarding the muddy water that was taking place and most likely continued as you cleaned off the sidewalk. I am required to follow up and respond to them.

I would like to meet on site with you. We can discuss what is needed at that time.

Do you have time available this Friday (02/09) at 11:00, Noon, or 1:00pm?

Sincerely,

Jimmi Serfling
City of Mercer Island Code
Compliance
206-275-7709

*** Working part-time, I am in the office on Mondays, Wednesdays and Fridays.**

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From: shane_miller_usa
[mailto:shane_miller_usa@yahoo.com]
Sent: Monday, February 05, 2018 8:45 AM

To: Jimmi Serfling
<Jimmi.Serfling@mercergov.org>
Cc: David Henderson
<david.henderson@mercergov.org>;
Evan Maxim
<evan.maxim@mercergov.org>; Don
Cole <Don.Cole@mercergov.org>;
Alison VanGorp
<alison.vangorp@mercergov.org>;shan
emillerus@gmail.com
Subject: Re: Stop Work Order Posted

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25/34

Jimmi, a few comments:

- 1) there is no work occurring currently, pending, or anticipated during the foreseeable future. Work last week was limited to yard maintenance. See photo attached of the subject area from the same vantage point as the photo provided by the neighbor. Everything you see in the photo has existed since the 1980s when it was built (dock, bulkhead, concrete path, landscape wall, etc)
- 2) the lake water is very clean and clear. See same photo.
- 3) there is not any dirt / debris entering the lake from my property because everything is clean, stable and secure.
- 4) small amount of sandy dirt debris was coming from a different source. Specifically, a large approx 35 foot derelict boat is poorly moored insecurely at the south neighbor dock and was grounding out on the lakebed during large wave action. Also at that dock are a severely damaged boat lift and mooring rope system which are scraping the lake bottom during waves. Note that neighbor's mooring situation is temporary and has been recently improved. See photo.
- 5) I had talked with you Friday about sliding bulkhead boulders thereby returning the boulders where they belong - up against the bulkhead. This work didn't occur and is canceled. See

same photo showing ~5 boulders remain unmoved and situated a few feet water-ward of the bulkhead.

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6) the driveway gate is entirely on my property. I hired Group4 Inc licensed surveyors to place capped rebar survey markers and ran a string line between the relevant markers. The gate is entirely on my side of this surveyed boundary. The gate is manual and always in the open position.

7) a licensed geotech engineer visited the property and saw no issues. Work limited to just landscape maintenance. No permit needed.

8) unfortunately the neighbor is bitter and vengeful for a variety of issues including because of trees that I had planted for privacy. He has been served multiple Cease and Desist Orders from my attorney for exactly this type of harassing behavior. I believe you have copies of these letters already. King County Superior Court had ordered him to return property to its rightful owner (his other neighbor) and pay sanctions totaling ~\$40,000. Recall that you had previously entered written findings that he is not credible. I think he may have altered the image provided.

May we please get together to discuss? Please let me know what day / time works for your schedule. I can meet at your office or at our home where you may see everything firsthand. I look forward to working with you.

Sincerely,
Shane
(206) 910-8443

<image001.jpg>

<image002.jpg>

Sent from my iPhone

On Feb 2, 2018, at 2:25 PM, Jimmi Serfling
<Jimmi.Serfling@mercergov.org>
wrote:

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27/34

Shane,

The Stop Work Order was posted today 2/2/2018 at 11:18am. No further work toward completing the retaining wall project or the project within the lake waters of moving rocks and disturbance of the lake bed until such time that you have been issued the proper permits and approvals from the City of Mercer Island and any WA state agencies involved with work in the shoreline buffers and within the State waters.

EXCEPTION

Work to perform temporary stability and erosion control measures may take place during this weekend (2/2/18 – 2/4/18) under the supervision of a WA State registered GEO Technical Engineer.

I would like to meet with you on site, on Monday 2/5/2018, to follow up on the Stop Work Order, view information from the GEO Tech and observe the steps taken for erosion control and stability measures.

The expectation is that you will submit all required documents and applications within the next week or two at the most.

At minimum you will need to submit for Shoreline Exemption and SEPA using the

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28/34

Environmental Checklist. This is for the work you have done in the water by moving the rocks and may also be needed for the retaining wall rebuild you are doing on the shoreline. You will need a building permit application for the retaining wall and include GEO Technical reports, engineered drawings of the retaining wall design. The drawings should define how the wall is constructed and what type of drainage system will be used. Depending on the scope of the project you may also need a critical area determination.

Regards,

Jimmi Serfling
City of Mercer Island
Code Compliance
206-275-7709

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Jimmi Serfling

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29/34

From: Shane Miller <shane_miller_usa@yahoo.com>
Sent: Thursday, February 15, 2018 8:40 AM
To: Gareth Reece
Cc: Jimmi Serfling; David Henderson; Evan Maxim; Don Cole; Alison VanGorp; Phil Haberman
Subject: Re: Stop Work Order Posted - Follow-up re: 2/12 Courtesy Notice and 2/14 Onsite Meeting

Gareth,

The statement that there are a series of specific exceptions in section 105.2, but the property did not meet any of these exceptions is not accurate. City Code Title 17.14.105.2.4 states there is an Exception to the Permit Requirements of City Code Title 17 Section 17.14.105.1 as follows:

"17.14.105.2.4 Retaining walls and rockeries which are not over 4 feet (1,219mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids"

For the avoidance of doubt, the subject is a retaining wall rockery, not over 4 feet in height and not supporting a surcharge or impounding liquids. Also, it is relevant this is not a new wall, but rather had pre-existed with timber facade since ~1980. Also preexisting are the adjacent concrete pathway and bulkhead which remain untouched since 1980, and which separate by a distance the rockery from the shoreline.

Based on the above, as well as prior communications from me, Mr. Haberman and Mr. Lee, the Section 19.07.060 does not apply because there is no development proposed. Mr. Haberman, Mr. Lee and I have all stated in writing as well as in-person the work was maintenance and completed on or about February 5, 2018. There is no work that is incomplete, pending or anticipated.

The SWO photo provided says there is work "in the Shoreline", which is not accurate. During our meeting you had assumed there was bulkhead work occurring, but there is not.

Also, the SWO photo was not produced per valid Records Request 18-79 fulfilled February 3, 2018, which had requested all records and all photos. Unfortunately, it is now clear that not all records and photos were produced in accordance with law. This is a pattern.

I'm happy to continue working with you via email or meeting in-person at your office.

Sincerely,
Shane

On Feb 14, 2018, at 4:41 PM, Gareth Reece <gareth.reece@mercergov.org> wrote:

Good afternoon Shane,

Your point #4 below is not an accurate or complete representation of my statement on site. The I believe the section that you referenced is MICC 19.07.110.B.1:

Legal Nonconforming Uses and Structures May Continue. Overwater uses and structures, and uses and structures 25 feet landward from the OHWM, which were legally created may be maintained, repaired, renovated, remodeled and completely replaced to the extent that nonconformance with the standards and regulations of this section is not increased.

Jimmi Serfling

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30/34

From: Jimmi Serfling
Sent: Friday, February 16, 2018 1:09 PM
To: 'Shane Miller'
Cc: David Henderson; Evan Maxim; Don Cole; Alison VanGorp; shanemillerus@gmail.com; Gareth Reece
Subject: RE: Stop Work Order Posted - Follow-up re: 2/12 Courtesy Notice and 2/14 Onsite Meeting

Shane,

Thank you for meeting with me and Gareth on Wednesday. We appreciate that you had Mr. Haberman and Mr. Lee there.

To clarify: The Courtesy Notice dated Feb. 12th, 2018 was not meant to reflect any findings from our site visit on Feb. 14th. It's purpose was to out line the case up to the date of the Notice and provide information and the reasons why case CE18-0017 was opened.

I will address each of your 6 bullet items:

1) The first sentence says there is wall construction taking place within the shoreline area, which is inaccurate. All work occurred well above and away from the shoreline, and the work was completed in a single day on or about February 2nd. You had received completed photos on or about February 5th, and witnessed the work in-person during today's meeting.

My use of "shoreline area" to define the location of the retaining wall construction is not inaccurate based on MICC 19.16.010 Definitions and RCW 90.58.030. Shorelands: Lake Washington, is underlying land, associate wetlands, and those lands extending landward 200 feet from its ordinary high water mark (OHWM). Shoreline Areas and Shoreline Jurisdiction: All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030 RCW 90.58.030 (d) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on horizontal plane from the ordinary high water mark;..... (e) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them;.....

2) The first sentence also says that dirty water entered Lake Washington, which is inaccurate. I had provided photographs showing and explaining otherwise, and I believe you understood the explanations and photos shown.

I believe you have miss quoted my first sentence, which is an accurate summary of the code compliance request that was submitted. When I met with you I understood that you acknowledge there was dirty water in the lake. I understood that you believed the photo showing the work taking place on your property was filtered somehow and that the dirty water was from the neighbors boat next door that was sitting on the lake bed. What you have not provided any evidence or an explanation of how you managed the mud that was created along the concrete path area throughout the wall construction and the clean-up.

3) The second sentence refers to lack of permits and property line issues for a driveway gate. Together we measured the gate and confirmed the height is less than 72 inches, and therefore we agreed there are no longer any code, permit or property line issues currently under Code Enforcement investigation for the driveway gate.

The first paragraph of the Courtesy Notice is a summary of the compliance request I received. As I stated in the Courtesy Notice : The gate is a manual gate and does not require any City permits to install. It is a private property civil issue as to whether it is located on your property or encroaching onto your neighbor's property. However, the gate does need to meet Land Use codes. The gate is located along your side yard, this is allowed. The allowed maximum height within the required side yard is 72 inches..... On 2/14/18 during my site visit, you and I measured the gate and it is approximately 68.5 inches measured at each of the posts. The gate concern is resolved for the City and no further investigation concerning the gate is needed.

4) We both know that walls above the shoreline had existed previously. Both the Geotech Engineer and Architect wrote in their letters about the state of the preexisting wood walls. Their letters also explicitly find the work limited to "yard maintenance", which it was. I think Gareth may have also agreed the work was limited to yard maintenance. Therefore, we have 2-3 engineers and 1 architect *all* calling it yard maintenance. Therefore, I believe these issues are addressed by the letters from Mr. Lee and Mr. Haberman and the results of today's in-person, onsite review of the subject area.

The Stop Work notice allowed you to install temporary erosion and stability control measures under the supervision of a geotech. Your geotech Phil Haberman with Cobalt Geosciences, has stated that he oversaw this work and that the work you completed meets his requirements for temporary measures to control erosion and stabilize the site. This does not in any way resolve the unpermitted work which has occurred, or allow the removal of the Stop Work, but it does exhaust the work which was allowed to proceed under the Stop Work.

The scope of work that you have done on the new rock wall that replaced the preexisting wood walls, as you have stated, requires a building permit. Gareth has provided you with our code information and explanation. He has asked you to submit a Building permit application with drawings. The Stop Work order remains posted until the code violations are resolved and the Building Official deems that it may be removed.

5) The Notice goes on to repeat allegations about work in the shoreline area and dirt/mud. Again, no work occurred in the shoreline area because it was above and away from the shoreline area, and no dirt/mud entered the Lake.

Jimmi Serfling

EX.1098
31/34

From: Don Cole
Sent: Friday, February 16, 2018 1:28 PM
To: Shane Miller
Cc: David Henderson; Jimmi Serfling; Evan Maxim; Alison VanGorp; shanemillerus@gmail.com; Gareth Reece
Subject: RE: Stop Work Order Posted - Follow-up re: 2/12 Courtesy Notice and 2/14 Onsite Meeting

Hello Mr. Miller,

I reviewed the email correspondence, photos, and spoke with Gareth and Jimmi regarding the recent scope of work conducted above your shoreline along with the associated code enforcement actions taken. My review confirmed that a permit is required for this work because work within land use critical areas is not exempt from permit (as highlighted in the code section below). Work within such as areas is not exempt in order to verify work is in compliance with the protective regulations for such critical areas.

The previously posted stop work order remains in effect (except that temporary slope stability and erosion controls measures under the direction of a licensed geotechnical engineer may be installed/maintained).

I would be happy to meet to discuss the permit process, applicable regulations and other questions you may have.



Don Cole, Building Official
Development Services Group
City of Mercer Island
9611 SE 36th St. Mercer Island, WA 98040-3732

206.275.7605 phone 206.275.7726 fax
206.275.7701 voicemail 206.275.7730 inspections
don.cole@mercergov.org www.mercergov.org
www.mybuildingpermit.com www.nwmaps.net

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MICC 17.14 Section 105.2 Work exempt from permit. Exemptions from permit requirements related to the construction codes shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of

Work did occur in the shoreline area. See my response to 1) & 2).

6) The MI Shoreline Ordinance No 13C-12 Page 4 says, "uses and structures twenty five (25) feet landward from the OHWM, which were legally created may be maintained, repaired, renovated, remodeled and completely replaced to the extent that non-conformance with the standards and regulations of this Section is not increased."

This Ordinance does not negate the fact that you need a building permit for the rock retaining wall work you have done.

Case CE18-0017 is not resolved and the issue still remains that you need to apply for a building permit in regards to the retaining wall work you have completed and the Stop Work Order is to remain in place.

Jimmi Serfling
City of Mercer Island Code Compliance
206-275-7709

* Working part-time, I am in the office on Mondays, Wednesdays and Fridays.

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From: Shane Miller [mailto:shane_miller_usa@yahoo.com]
Sent: Wednesday, February 14, 2018 2:56 PM
To: Jimmi Serfling <Jimmi.Serfling@mercergov.org>
Cc: David Henderson <david.henderson@mercergov.org>; Evan Maxim <evan.maxim@mercergov.org>; Don Cole <Don.Cole@mercergov.org>; Alison VanGorp <alison.vangorp@mercergov.org>; shanemillerus@gmail.com
Subject: Re: Stop Work Order Posted - Follow-up re: 2/12 Courtesy Notice and 2/14 Onsite Meeting

Jimmi,

I hope you found today's onsite meeting helpful, including getting to hear in-person from experts such as the Licensed Geotechnical Engineer (Mr. Haberman) and Licensed Architect (Mr. Lee).

I'm in receipt of your Code Compliance Courtesy Notice dated February 12, 2018. However, the Notice does not appear to reflect the results of today's February 14, 2018 meeting nor the letter from Mr. Haberman, which was also provided today. For example, specifically:

- 1) The first sentence says there is wall construction taking place within the shoreline area, which is inaccurate. All work occurred well above and away from the shoreline, and the work was completed in a single day on or about February 2nd. You had received completed photos on or about February 5th, and witnessed the work in-person during today's meeting.
- 2) The first sentence also says that dirty water entered Lake Washington, which is inaccurate. I had provided photographs showing and explaining otherwise, and I believe you understood the explanations and photos shown.
- 3) The second sentence refers to lack of permits and property line issues for a driveway gate. Together we measured the gate and confirmed the height is less than 72 inches, and therefore we agreed there are no longer any code, permit or property line issues currently under Code Enforcement investigation for the driveway gate.
- 4) We both know that walls above the shoreline had existed previously. Both the Geotech Engineer and Architect wrote in their letters about the state of the preexisting wood walls. Their letters also explicitly find the work limited to "yard maintenance", which it was. I think Gareth may have also agreed the work was limited to yard maintenance. Therefore,

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the construction codes or any other laws or ordinances of this jurisdiction. **Permit exemptions shall not apply to Areas of Flood Hazard and City Land Use Critical Areas.** Permits shall not be required for the following:

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Public service agencies or Work in the Public Way.

1. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies established by right.
2. A permit shall not be required for work located primarily in a public way, public utility towers and poles (but not exempting wireless communications facilities not located in a public way) and hydraulic flood control structures.

Grading.

1. An excavation below existing finished grade for basements and footings of an existing building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any excavation having an unsupported height greater than 5 feet.
2. An excavation of less than 50 cubic yards of materials which:
 - a. is less than 2 feet in depth and/or
 - b. which does not create a cut slope of a ratio steeper than two horizontal to one vertical.
3. A fill of less than 50 cubic yards of material which is less than 1 foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical.

Building.

1. One-story detached accessory structures constructed under the provisions of the IRC used as tool and storage sheds, tree supported play structures, playhouses and similar uses, provided the floor area does not exceed 200 square feet (18.58 m²).
2. Fences not over 6 feet (1,829 mm) high.
3. Oil derricks.
4. Retaining walls and rockeries which are not over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.

From: Jimmi Serfling
Sent: Friday, February 16, 2018 1:09 PM
To: Shane Miller <shane_miller_usa@yahoo.com>

Jimmi Serfling

EX. 1098

34/34

From: Jimmi Serfling
Sent: Friday, February 16, 2018 1:31 PM
To: 'Shane Miller'
Cc: Ali Spietz; Alison VanGorp; Don Cole; Gareth Reece; Mary Swan
Subject: Records request discrepancy

Shane,

In your correspondence with Gareth in the email below, I have highlighted the area where you claim that the City did not provide you with all documents per your records request.

From: Shane Miller [mailto:shane_miller_usa@yahoo.com]
Sent: Thursday, February 15, 2018 8:40 AM
To: Gareth Reece <gareth.reece@mercergov.org>
Cc: Jimmi Serfling <Jimmi.Serfling@mercergov.org>; David Henderson <david.henderson@mercergov.org>; Evan Maxim <evan.maxim@mercergov.org>; Don Cole <Don.Cole@mercergov.org>; Alison VanGorp <alison.vangorp@mercergov.org>; Phil Haberman <cobaltgeo@gmail.com>
Subject: Re: Stop Work Order Posted - Follow-up re: 2/12 Courtesy Notice and 2/14 Onsite Meeting

Gareth,

The statement that there are a series of specific exceptions in section 105.2, but the property did not meet any of these exceptions is not accurate. City Code Title 17.14.105.2.4 states there is an Exception to the Permit Requirements of City Code Title 17 Section 17.14.105.1 as follows:

"17.14.105.2.4 Retaining walls and rockeries which are not over 4 feet (1,219mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids"

For the avoidance of doubt, the subject is a retaining wall rockery, not over 4 feet in height and not supporting a surcharge or impounding liquids. Also, it is relevant this is not a new wall, but rather had pre-existed with timber facade since ~1980. Also preexisting are the adjacent concrete pathway and bulkhead which remain untouched since 1980, and which separate by a distance the rockery from the shoreline.

Based on the above, as well as prior communications from me, Mr. Haberman and Mr. Lee, the Section 19.07.060 does not apply because there is no development proposed. Mr. Haberman, Mr. Lee and I have all stated in writing as well as in-person the work was maintenance and completed on or about February 5, 2018. There is no work that is incomplete, pending or anticipated.

The SWO photo provided says there is work "in the Shoreline", which is not accurate. During our meeting you had assumed there was bulkhead work occurring, but there is not.

Also, the SWO photo was not produced per valid Records Request 18-79 fulfilled February 3, 2018, which had requested all records and all photos. Unfortunately, it is now clear that not all records and photos were produced in accordance with law. This is a pattern.

I'm happy to continue working with you via email or meeting in-person at your office.

Sincerely,
Shane

I have passed this on to our City Clerks Office. They will respond to your statement.

Jimmi Serfling

City of Mercer Island Code Compliance
206-275-7709

*** Working part-time, I am in the office on Mondays, Wednesdays and Fridays.**

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