

Jimmi Serfling

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.