



Shane Miller
7709 W Mercer Way
Mercer Island, WA 98040

ANTHONY MYERS
CITY OF MERCER ISLAND
COMMUNITY PLANNING & DEVELOPMENT
9611 SE 36TH STREET
MERCER ISLAND, WA 98040

98040-379211



SEATTLE WA 980

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Grinding
CO



September 22, 2019

Anthony Myers
City of Mercer Island
Community Planning & Development
9611 SE 36th Street
Mercer Island, WA 98040

Shane Miller
7709 West Mercer Way
Mercer Island, WA 98040

Dear Anthony,

I am writing in response to the Courtesy Notice dated August 23, 2019, which relates to previously settled matters dating way back to February 2, 2018. Specifically, matters were previously settled with the Code Enforcement Officer, Ms. Jimmi Serfling, during February 2018.

The August 23, 2019 Notice references an email dated February 16, 2018, which is not accurate. Specifically, the August 23rd Notice states:

“a permit is required for this work because work within land use critical areas is not exempt from permit [sic].”

However, this statement is not accurate because a building permit is not required to perform landscape maintenance work. Only landscape maintenance was performed. A Licensed Engineer and Architect had entered written findings proving that only maintenance work had occurred.

Specifically, Mr. Phil Haberman, PE, LG, LEG entered written findings which state,

“the scope of work was limited to yard maintenance”

(See Exhibit A – signed Letter from Mr. Haberman, PE, LG, LEG)

Also, the licensed architect Mr. Michael Lee entered written findings which state,

“project scope little more than simple landscape maintenance, which should be expected periodically and which would not typically require a permit”

(See Exhibit B – signed Letter from Mr. Lee, Architect)

Additionally, I hold a Bachelors degree from the College of Engineering at the Georgia Institute of Technology, and I too am qualified to assess and confirm that only simple maintenance occurred.

Virtually every waterfront home on Mercer Island maintains its shoreline areas. Otherwise, the shorelines would soon be haphazard jungles of overgrown vegetation versus the pristine maintained areas that exists currently throughout.

I had previously hosted at my home on February 14, 2018 Code Enforcement Officer, Ms. Jimmi Serfling, for the purpose of meeting in person to review and question Mr. Haberman and Mr. Lee on their findings that only maintenance work had occurred. However, there was no dispute asserted by Ms. Serfling during the meeting at my home.

This property was developed during the 1980's with permits having been issued and all inspections completed by the City. These records are on file with the City.

The original developer from the 1980's, Mr. George Lewis, continues to reside in the neighborhood, and has graciously offered to sign an affidavit confirming the shoreline area was permitted and developed by him during the 1980s and has not changed since that time other than maintenance.

The shoreline area is unchanged since the 1980's. Specifically, the poured concrete pathway that exists currently atop the bulkhead and along the shoreline area is exactly the same as it was in the 1980's. This can be seen from the weathering of the concrete and review of historical satellite imagery. Any "work" done to the area since the last inspections from the 1980's was limited to maintenance and upkeep.

The Complainant – Mr. William "Bill" Gartz – has a long history of false reporting, and has been deemed by City Code Enforcement Officer Ms. Jimmi Serfling "not credible", according to Ms. Serfling's emails, which are disclosed in record requests. City Staff have also labeled Mr. Gartz a "Code Violations Frequent Flyer" in emails.

Additionally, the Complainant was sanctioned by King County Superior Court and ordered by the Court to return land to its rightful owner / his neighbor, which he did. Also, Mr. Gartz was ordered to pay monetary sanctions totaling approximately \$35,000, which he paid. Ever since losing in Court, the Complainant has been bitter and vengeful toward both of his adjacent neighbors. Unfortunately, the Complainant has a history of improper behavior and revenge motivations and the February 2018 complaint is merely a continuation. Suffice it to say, the Complainant is not credible.

The City has stated that this area is a "critical slope", which the City defines as a slope greater than 40%. However, this slope is not greater than 40%. I have a Topographic Survey from a Licensed Surveyor, which proves the slope is less than 40% and non-critical. I ask that the City please stop calling the slope critical and/or greater than 40%.

The property has already undergone significant Geotechnical Engineering testing and review, and has been deemed stable. This has included boring, soil testing, geo-

modeling, seismic factoring, etc. The City has these records on file. More of the same testing would be imprudent and unhelpful.

I have owned and lived at the subject property for the past 13 years continuous. During this time, I have planted approximately 500 new trees and shrubs, all of which add significantly to stability. The 70 cypress trees span virtually the entire length of the property and are nearing 50 feet tall each tree. The roots are established and significant. The Engineer and Architect have confirmed this also:

"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"

(See Exhibit A – signed Letter from Mr. Haberman, PE, LG, LEG)

"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."

(See Exhibit B – signed Letter from Mr. Lee, Architect)

I should be commended by the City Building Department for having been proactive in making considerable investments in trees and shrubs that help support soil and slope stability throughout the entire property.

During February 2018 the Licensed Geotechnical Engineer entered written findings that the area is stable. All other Geotechnical Engineering reviews completed at the property also find the property stable. The City has in its possession these Geotechnical Engineering reports and records. These written findings include signatures by the Licensed Engineers and are sufficient to counteract and dismiss any and all false claims to the contrary.

Please feel free to call any time to discuss. I can also schedule a time to visit your offices and meet with you in-person to discuss. I had extended this offer to Ms. Serfling as well, and we had met in-person several times. I know that Ms. Serfling found each in-person meeting helpful. I look forward to working with you.

Sincerely,



Shane Miller
(206) 910-8443

EX. A



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

EX. B

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