



November 6, 2020

Rabbit Creek Community Council
1057 W. Fireweed Lane, Suite 100
Anchorage, AK 99503

Ann Rappoport, Co-chair
Rabbit Creek Community Council

Ky Holland, Co-chair
Rabbit Creek Community Council

RE: Response to inquiry of Fill & Grade Activity, Villages View Estates, Tract B

Dear Ms. Rappoport and Mr. Holland:

Thank you for your inquiry regarding the enforcement response to complaints of alleged violations of Anchorage Municipal Codes (AMC) Titles 21, Land Use Regulations, and Title 23, Building Codes, on the above referenced property. As both issues are handled by Development Services Department (DSD) staff, I am responding for both myself and Director McNulty.

The excavation and fill activities on this parcel were conducted under three Fill & Grade Permits: 07-6014, 07E3264 and C13-1631 with subsequent change orders of X14-1442 and 14-1661. Permit C13-1631 is current until December 31, 2020. The volume/area of disturbance approved in the most recent change order was for a disturbance area of 40,000 square feet and the volume of fill to be excavated and replaced is 5,000 Cubic Yards (CY). The AMC, Title 21 sections applicable to the permit and subsequent change orders, were 21.40.115 - *R-10 residential alpine/slope district*, and 21.15.050, *Land Use Permit*.

Being that the original permit and change orders were approved and issued under the "Old" Title 21, there are very few prescriptive requirements for steep slope development as there are now in AMC 21.07.020.C. The previous code requirements were in 21.40.115, *R-10, Residential Alpine/Slope District*. Other than density, it only specified that excavation activity be discontinued, and stabilization of soils had to be achieved by November 1st of each year until the permit was closed.

Since the prescriptive requirements of the current Title 21 are not applicable, the appropriate Title 21 provision against which to assess compliance is AMC 21.13.030.B, *Activity Inconsistent with An Entitlement*, being that the disturbed area and volume of material approved, was exceeded. Also, the current approved plan calls out that "All new and disturbed slopes shall have sufficient topsoil when complete and be revegetated by August 15, 2017." There has been no revegetation noted other than natural grasses and weeds. When Mr. Wika submits the revised and engineered grading plan, we will require that soil stabilization and revegetation be specified and called out.

When Code Enforcement and Code Abatement were on site September 9, 2020, they confirmed the 5,000 CY had been exceeded, and posted a Stop Work Order and Notice and Order citing violations of AMC 23.105.105.1 and 23.105.105.2 which refers to the requirements for Engineered Grading under the Building Code, AMC Title 23. Of note, your letter refers to a 14-day limit to respond to a notice of violation which is incorrect when Title 23 violations are cited using AMC 23.70 provisions to initiate a stop work order.

In answer to your specific questions, Municipal Code Enforcement followed up on the site on each complaint. They were unable to substantiate violations based upon number of truckloads or fill brought in or that blasting was occurring. Because of observations made on the visit, a joint visit by Title 21 Land Use Enforcement and Title 23 Code Abatement officers was conducted on September 9, 2020. This joint visit led to the Stop Work Order and Notice of Violation.

Your letter raises an important question in asking why the violation of the scope of land use permit for fill and grade was not detected previously. As you know, the location of this work is outside (just barely) of the Building Safety Service Area (BSSA). Outside of the BSSA, there are no requirements for inspections for construction work that is under way. When a permit applicant is ready for a final zoning inspection to close out a permit, s/he calls to request a zoning inspection. The permit applicant in this case has yet to call for such an inspection. Absent ongoing inspections as occur inside the BSSA, issues such as this one can only be investigated when a complaint is initiated as there is not a comparable right of inspection by Municipality of Anchorage (MOA) employees.

The MOA is initiating a legal action as a Title 21 violation. The applicable provision is AMC 21.13.030B; violation of 55 days at \$300 per day = \$16,500. Of note, the necessary staff to initiate this action were first able to return to the office yesterday.

At this point, the stop work order remains in effect. For whatever action is next taken with this parcel, the first step is a change order with an engineering plan set. The submitted change order documents will be subject to rigorous plan review, both from a civil engineering and a zoning perspective. We cannot deny the owner the opportunity to apply for a permit change order, but we will not allow the project to go forward without a plan that addresses all applicable Title 21 and 23 issues.

Thank you again for your inquiry. I hope this has answered your questions and clarified the applicable code sections and our path moving forward.

Sincerely,



Robert Doehl
Building Official & Director