

December 14, 2023

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
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www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Department of Local Services file no. **ENFR200516**

ROBERT HALLSTROM

Code Enforcement Appeal

Location: [REDACTED] Kent

Appellant: **Robert Hallstrom**

[REDACTED]
Kent, WA 98042

Telephone: [REDACTED]

King County: Department of Local Services
represented by **Holly Sawin**
Department of Local Services
919 SW Grady Way Suite 300
Renton, WA 98057
Telephone: (206) 477-0291
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FINDINGS AND CONCLUSIONS:

Overview

1. Robert Hallstrom appeals a violation notice (for grading and construction within critical areas buffers) and order (requiring him to obtain the necessary permits). After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we deny his appeal. We do, however, clarify that, given the unique circumstances of this case, Mr. Hallstrom should not be charged the normal extra fees that attached to someone who does work without first obtaining a permit. And we set new compliance deadlines.

Analysis

2. This is an unusual case. In the typical code enforcement appeal, a person undertakes some activity that triggered the need for a land use permit and/or building permit without first approaching the Department of Local Services, gets caught, and then is required to come in for a permit. That is not our scenario.
3. Mr. Hallstrom wanted to realize a long-held dream of building a shop in an area that had been largely flattened in the 1970s, long before there was a critical areas, let alone even a sensitive areas, code. In 2018—before he broke ground or started construction—he came in for a pre-permit submittal screening, an informal process Local Services employed at the time to give early feedback to help would-be applicants spot and avoid obvious roadblocks. The reviewer wrote that “Current proposed location is w/in 50’ of mapped steep slopes[.] need geo report or relocation.” Rather than push his building envelope at least 50 feet from the steep slope edge or hire a Geotech to study the question and see if those buffers could be reduced, Mr. Hallstrom thought that if he filled in the top of the steep slope and thus created his *own* buffer, he could satisfy the requirement.
4. To anyone who works with land use or building permits, that would seem a nonsensical and willfully indifferent approach, in the same way that if, say:
 - the critical area was a wetland, Local Services said a building would need a 50-foot buffer to the wetland, and the landowner “solved” the problem by filling in the wetland, or
 - the critical area was a stream, Local Services said a building would need a 50-foot buffer from the stream, and the landowner “solved” the problem by rerouting the stream away from their preferred building site.
5. Yet we did not detect any deception in Mr. Hallstrom. We find he honestly misinterpreted the official’s comments. His response was not entirely internally consistent,—even following his own logic that it would be ok *build* a buffer by moving the critical area further from his desired building site, instead of the legally required approach of moving his building site further from the critical area—he only filled in enough area to create a 14-foot (not 50-foot) buffer and then started work before he consulted a Geotech or applied for permit. Ex. A2 at 004. But we do not doubt that he thought he could create an on-the-ground situation that would then allow him to obtain a building permit for which he had already had plans drawn up. Ex. A1.
6. That finding has no impact to the on-the-ground result. Regardless of why he did what he did and what he thought when he was doing it, Mr. Hallstrom graded in a steep slope critical area buffer, if not the steep slope itself. Ex. D6. Any grading in that area required a permit. KCC 16.82.050.B (unless specifically excepted a person shall not do any clearing or grading without first obtaining a clearing and grading permit). He then constructed a retaining wall for the building and poured concrete foundation; that too required a permit. KCC 16.02.110 (anyone intending to construct a building must “first

make application to the building official and obtain the required permit”). Both of those were violations triggering the need for a permit(s).

7. And there does not seem any path to legalizing his construction. Mr. Hallstrom may very well have to restore the entire area back to how it looked in 2018.¹ But those are all questions to tackle *during* the permit process. Our finding today does not prejudge the outcome of the permit process, only that Local Services has proven a violation that requires a permit to resolve.
8. In addition, there is some dispute as to precisely what work Mr. Hallstrom (or his contractors) performed. Mr. Hallstrom obviously filled in logs and soil below the building site, cut at least a little bit into the slope above the building site to place ecology blocks, and then poured some foundation and constructed a retaining wall. But we make no granular-level findings related to height/depth/square-footage/cubic yards. When Mr. Hallstrom applies for a prescreening meeting, he should detail, as best he can, exactly what the activity area looked like going into 2018, and then what exactly he did from then on. And then the facts can be ascertained during permit review.
9. Instead, the additional finding (other than upholding Local Services’ asserted violations and order that Mr. Hallstrom apply for permits to bring the property in the compliance) we make relates to the normal rule that extra fees apply to someone who undertakes work without first obtaining a permit. KCC 27.10.425. Those extra fees dis-incentivize a cavalier attitude to permits. Otherwise, one would be no worse off doing permit-triggering work without first obtaining a permit, hoping they do not get caught, and—if they do get caught—simply paying the normal permit fees they would have had to pay if they had not violated the code.
10. But our scenario is different. Mr. Hallstrom had building plans drawn up and—before he undertook any work on the ground—responsibly went into Local Services to try figuring out the requirements. That he completely misunderstood the advice he received does not mean he was trying to pull a fast one. And he promptly stopped work once he received an order to do so. Excess fees seem inappropriate here.

DECISION:

1. We deny Mr. Hallstrom’s appeal.
2. We set the following compliance steps and deadlines:
 - A. By **February 14, 2024**, Mr. Hallstrom shall submit a complete permit prescreening application (site plan, site area worksheet, photos, fee), either on MyBuildingPermit.com or by mail.

¹ In his appeal statement, Mr. Hallstrom questioned whether the location of his construction posed a significant harm. Ex. D3. Harm is not actually the standard. All civil code violations are determined to be detrimental to the public health, safety, and environment and are declared public nuisances. KCC 23.02.030. Local Services having met its burden to prove that the work triggered a permit, there is not some additional threshold of work-only-requires-a-permit-if-it-is-specifically-shown-to-create-harm.

- B. Mr. Hallstrom shall attend that scheduled permit prescreening meeting.
 - C. After that prescreening meeting, Local Services will mail Mr. Hallstrom a letter detailing the requirements for permit submittal. That letter should specify a date, at least sixty days after the letter goes out, by which time Mr. Hallstrom shall submit a complete clearing/grading/restoration permit(s) application meeting those permit submittal requirements.
 - D. Thereafter, Mr. Hallstrom shall meet all deadlines for requested information associated with the permit(s), pick up the permit(s) within the required deadlines, and obtain all final permit approvals within one year of permit issuance.
3. No penalties shall be assessed against Mr. Hallstrom or the subject property if the above actions are completed by the above deadlines, or by any reasonable deadline extension Local Services provides. If not, Local Services may issue penalties retroactive to today. Mr. Hallstrom should be sure to notify Local Services of progress and ask for any necessary deadline extensions well *before* a deadline expires.

ORDERED December 14, 2023.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County's final decision for this type of case. This decision shall be final and conclusive unless proceedings for review of the decision are timely and properly commenced in superior court. Appeals are governed by the Land Use Petition Act, Chapter 36.70C RCW.

**MINUTES OF THE NOVEMBER 30, 2023, HEARING IN THE APPEAL OF
ROBERT HALLSTROM, DEPARTMENT OF LOCAL SERVICES
FILE NO. ENFR200516**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Holly Sawin and Robert Hallstrom. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

The following exhibits were offered and entered into the record by the department:

Exhibit no. D1	Department of Local Services staff report
Exhibit no. D2	Notice and order, issued September 25, 2023
Exhibit no. D3	Appeal, received October 17, 2023
Exhibit no. D4	Codes cited in the notice and order
Exhibit no. D5	Photographs of subject property taken by Ofc. Sawin on July 9, 2020
Exhibit no. D6	iMap steep slope hazard layer
Exhibit no. D7	Record list for subject parcel in Accela
Exhibit no. D8	CONNECT Explorer Aerial photographs of subject property, dated May 13, 2023

The following exhibits were offered and entered into the record by the appellant:

Exhibit no. A1	Hand drawn maps/diagrams
Exhibit no. A2	ABC building/site plan requirements
Exhibit no. A3	Permitting submittal services

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CERTIFICATE OF SERVICE

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ROBERT HALLSTROM
Code Enforcement Appeal

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- placed with the United States Postal Service, Quadiant-Impress, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED December 14, 2023.



Jessica Oscoy
Office Manager

Breazeal, Jeri

Department of Local Services

Campbell, Thomas

Department of Local Services

Hallstrom, Robert

Hardcopy

Sawin, Holly

Department of Local Services

Whalen, LaDonna

Department of Local Services