



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
PHONE (415) 453-1584 / FAX (415) 453-1618

MEMORANDUM

To: Linda Neal – Principal Planner

Date: August 1, 2016

From: Ray Wrynski
Town Engineer

Page 1 of 3

Subject: Proposed Access Stairs
118 Tamalpais Road
Fairfax, CA

A.P. 001-121-61

This memorandum provides the comments and requirements you requested for this project.

Two site reviews were done and during one site review, the owner of 120 Tamalpais Road, saw me at the site and discussed, with me, the project of the proposed stairs.

Documents, for this project, that were reviewed included plans from American Land Surveying, dated 2/27/16 (7 pages), the 4/21/16 letter from Geoengineering, Inc., The 9/3/15 report by Urban Forestry Associates, Inc., The 6/13/13 preliminary title report from Old republic Title Co., the 5/10/16 letter from attorney Lawrence Bragman, the 3/24/15 repair proposal from Engineered Soil Repair, Inc. and the 12/19/14 report from Herzog Geotechnical Consulting Engineers.

A question you noted that needed an answer was my judgment of the probability that the proposed construction of the stairs, with the retaining wall, may cause stability problems at the rock rip-rap hillside stabilization that was placed in March of 2011.

The 4/21/16 letter by Geoengineering notes minor sloughage but does not state any concern for stability. The 12/19/14 Herzog report concludes that the cut bank in this area is subject to continuing sloughing and possible larger failures. A 3/23/11 photo (from the rip-rap work) shows that there was soil sliding or sloughing under and just easterly of the existing wood stairs. This is in an area where there appears to be some bedrock exposed so that apparent bedrock structure, in this location, is not a reliable indicator of stability.

Based on the above information, I find that the easterly end wing-wall, for the proposed new stairs retaining wall, will create an unneeded potential for damage, from instability, to the grouted rock slope repair. Excavation and work like drilling for piers, in steep banks that have low strength will often dislodge chunks of soil and there is no justification for risking that kind of damage at this location.

The retaining wall and stair structure must be moved about five lineal feet northwesterly to get it away from the rip-rap structure and away from the subdrain outlet for the rip-rap structure. This movement of the planned construction will also solve the problem of disrupting the water service to 120 Tamalpais Road. That water service location is shown a little incorrectly on the topographic base map in the plans.

ATTACHMENT D

The water line goes uphill under the existing stairs onto the property of 120 Tamalpais Drive. There is no easement shown on the plan for a waterline to cross 120 Tamalpais Road and serve 118 Tamalpais Road. This water line location seems to indicate an access problem for the water service to 118 Tamalpais Drive.

The owner of 120 Tamalpais drive, Mr. Bess, told me he thought that the water line went up the hill and then split to serve the two properties. This might be true and it might be workable when 118 and 120 Tamalpais Road were owned by the same person. This is a very odd water service condition and probably is not workable with these properties in separate ownership. The correct existing water service location must be shown on the plans and the water meter or meters that serve 118 and 120 Tamalpais Road must be shown so that it is clear if there is an access and service problem for water supply to 118 Tamalpais Road. If there is no legal water service to 118 Tamalpais Road, that will have to be corrected.

There are a number of easements shown on the title report that affect the 118 Tamalpais Road. A note must be added to the topographic survey stating that all easements, affecting the proposed construction area, from the title report, are shown. If there are no easements, affecting the construction area, then a note stating this must be added to the topographic survey.

The question of ownership of two Maple trees is raised in the 5/10/16 Bragman letter. The proposed stairs appear to require removal of these two trees, the ones called 6" MPL and 10" MPL on the survey. These trees are somewhat larger than 6" and 10" and are called 9.9" and 14.9" in the Urban Forestry Associates report. The Town should not permit work that requires the removal of trees that cannot be removed because of an ownership conflict. The property line is shown to be very close to these trees and since the lower portion of the trees is irregular that part of each tree may be crossing the property line even though the topographic survey does not seem to indicate that. To resolve this question the property line must be staked in the field so that a string line, on the property line, can be set through the area of the tree locations and visually checked by Town staff and by the respective property owners to determine if there is a question of tree ownership. After that field check, the disposition of the trees can be resolved. The topography also shows two 12" MPL trees near the northerly side of the new stairs and these trees are more correctly called 23.7" and 12.2" bay laurel in the Arborist report. All these trees may be affected by the construction so their identification is important.

The Bragman letter raises the question of the accuracy of the property line location, primarily, because the property corner near the street was found to be set in the wood deck of the existing damaged stairs. This deck could have moved when the landslide below 120 Tamalpais road occurred or it could have moved due to aging of the wood stairs and weathering of the steep slope. Confirming information must be provided either on the survey or in a letter from the surveyor as to how it was determined that the property line location, shown on the topographic survey, is correct. I will assume that the line length shown was field measured and found to be the length for that line shown on the referenced recorded record of survey.

If the property corner at the street had been shifted by movement of the deck it would not satisfy an angular check of the property line, that is shown, based on a field measurement of the angle of this property line relative to one of the other property lines shown on the record of survey. This check or another suitable check will resolve this question. This angular check should be possible by turning an angle from the southerly (uphill) end of the property line shown where the back line (northeast – southwest) intersects the property line shown on the topography along the southeasterly side of the 118 Tamalpais Road site. After the property line location is confirmed several, fairly permanent points on the property line, near the construction area must be set to be used to check tree locations and to check the


construction work along the property line as the work progresses. The relationship of these points to the front property corner must be provided. If these points are lost during the construction they will have to be reset. The survey work information, described above must be provided on the plan or in a letter to the Town with the signature and seal of the surveyor responsible for it. Since the survey work already provided to the Town is given as the responsibility of Robert Settgast, he appears to be the professional providing the signature and seal covering this additional boundary surveying work. This also includes the easement work described above. I know that Mr. Settgast is showing his geotechnical license on the plan but that is carried by his civil engineer's license which includes surveying authority. Mr. Settgast has never, to my knowledge, provided land surveying work so he probably will not be signing for the surveying work and probably did not intend to be the only licensed person signing the topographic survey with boundary information. Whoever did the surveying work that has been provided and will be provided must place their signature and seal on the copies of this information provided to the Town.

The plans state that the work on the water line and sewer line is to be as required by the City of Fairfax. This must be changed to be done as required by the Marin Municipal Water District and the Ross Valley Sanitary District. Also, a note must be added to the plans stating that all parts of the new stair structure and retaining wall construction shall be a minimum of three feet clear of the westerly edge of the vehicular travel lane of Tamalpais Road.

Regarding statements in the Urban Forestry (Arborist) report about the trees, there is the suggestion that Tree 1 is near some Redwood Trees and the bay tree and that those trees will contribute to the slope stability. That may be true but since I have seen so many healthy trees go downhill with landslides, I do not look at trees as a significant factor in stabilizing a low stability hillside. The arborist report stated Tree 2 has a severe lean and for that and other reasons it has a negative effect on soil stability. I agree completely with the report on this tree. Mr. Bess told me he would like that tree to stay so that is his feeling. I believe the tree can be expected to rotate and uproot at some time in the near future and that will result in quite a bit of damage to the slope. If that tree is removed or cut off at ground level that will be positive factor in reducing probable damage to this steep slope area.

Something worth considering at this location would be building the proposed stairs with an extended landing at the top of the retaining wall that would serve both 118 and 120 Tamalpais Road. This would eliminate the need to build more stairs at this location in the future for 120 Tamalpais Road. I realize this would put the structure back close to the rock rip-rap repair where I do not want the soil disturbance to be. I believe this could be done successfully with careful soils engineering inspection and construction near the rip rap. The stairs up to this first landing would be in the street right of way and could be designated for the use of the two properties and designated to be maintained by the two properties. If this could be done it would resolve the access issue for both properties fairly well. The stairs in the right of way that are proposed must be covered by an encroachment permit as required by Code Section 12.32.

I recommend that the processing of this project be delayed until the above required information is received.


Ray Wrynski, P. E.
Town Engineer

GEOENGINEERING, INC.

Geotechnical Engineering Consultants

124 Paul Drive, Suite #105
San Rafael, CA 94903

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April 21, 2016
File 3-147-als

*GEOTECHNICAL RE-EVALUATION
AND
PLAN REVIEW & ACCEPTANCE
DRILLED I-BEAM &
TIMBER LAGGING BULKHEAD
AND WOOD STAIRWAY
CUT INTO RISING SLOPES
118 TAMALPAIS AVENUE
FAIRFAX, CALIFORNIA*

Our firm had performed a geotechnical evaluation and developed a design for the entitled drilled bulkhead. This submittal (which is attached) includes: A General Plan, on Sheet 1; A typical Design Section on Sheet 2; Photos on Sheet 3; and our Calculations & Design Criteria on Sheet 4.

Weathered bedrock is exposed at grades of or within a half foot of grade, which simplifies design. The project was then designed by American Land Surveying of Mill Valley (ALS) who used our criteria with consultation from us.

We have reviewed the final version of the project design by ALS (Sheets 1 through 5—dated 2/27/16—their file ALS14025)) and have discussed it with them.

We had also re-visited the site on April 14. Aside from some minor sloughage that is normal, there were no changes since our previous 2/27/16 evaluation.

As indicated on the plans and on sheet 2 of our criteria and on sheet 5 of the current ALS plan, foundation drilling and earthwork must be monitored and approved by the geotechnical engineer—and our acceptance is subject to this

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In view of the above points we find these plans to meet the intent of our criteria as well as other normal standards for similar projects in comparable settings.

Given the favorable geological conditions, there are no reasons why this project cannot proceed in an expedited manner.

CLOSURE AND LIMITATIONS

By accepting this report the client and other recipients acknowledge their understanding and acceptance of the following terms and conditions. They also acknowledge that no verbal or written guarantees were made by the undersigned.

ATTACHMENT **E**

Even though we see no reason to suspect that the soil or foundation behavior will differ from our predictions, one must recognize that factors contributing to hillside and foundation instability, surface and groundwater seepage, and other geotechnical related problems cannot always be detected.

Earth slippage and subfloor water are sometimes unavoidable especially during rainfall and/or irrigation. Sub-drain performance can never be predicted and blockages in such system are common. Cracks in wallboard & tile, and some distortions in hardwood floors will develop in most structures from normal wood shrinkage and relaxation--especially for additions. Concrete curing and stress cracks are unavoidable. Since we are not contracted for full time observations, we are not be liable for construction errors.

It is also understood that certain risks must be assumed for all types of foundation, earth, and drainage systems. These risks can always be lessened by upgrading these systems even though the margin of additional safety may be small compared to the additional costs involved. Although the engineer may assist in selection of the optimum balance between safety and economy, the client and all recipients understand that the risk is their own.

This report represents our best judgment based on the available information and complies with current standards of practice for projects of comparable scope and budgets. No forms of warranty or insurance coverage are expressed or implied in our reports or other communications.

If a claim is made against GeoEngineering, Inc. for any act relating to our professional services without just cause, the initiator(s) of the claim shall pay for all costs and lost time associated with our defense. In any case, our liability cannot exceed our fee for this project. We carry no errors and omission insurance.

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We trust that this report provides the information required. You may contact us for clarification.

Respectfully submitted,
GEOENGINEERING INC.



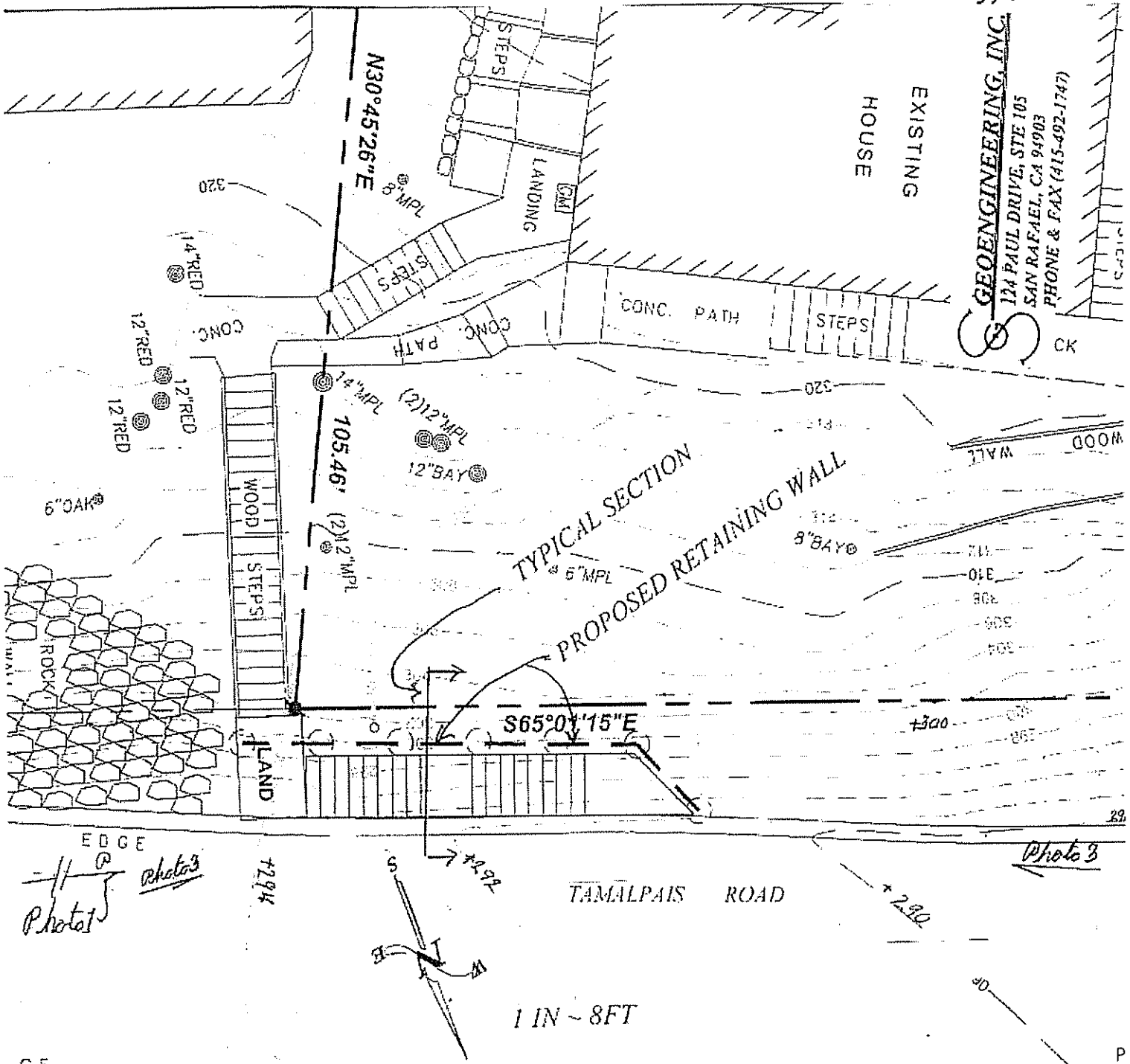
Robert H. Settgast
Professional Geotechnical Engineer

RHS:rhs

Attachment: Design & Criteria 1. General Plan; 2. Typical Design Section;
3. Photos; & 4. Calculations & Design Criteria.

CC: American Land Surveying ; joeelemen@sbglobal.net
Town of Fairfax 142 Bolinas Road, Fairfax, CA , Attn Linda Neal:linda@townoffairfax.org
Glenn Wechsler: glenn@glennwechsler.com

13 July, 14



GEOENGINEERING, INC.
 124 PAUL DRIVE, STE 105
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 PHONE & FAX (415-492-1747)

GENERAL PLAN
 PROPOSED DRILLED I-BEAM
 RETAINING WALL
 STAIRWAY ACCESS CUT
 118 TAMALPAIS RD
 FAIRFAX, CA
 FOR AMERICAN LAND SURVEYING



EDGE
 Photo 1
 Photo 2

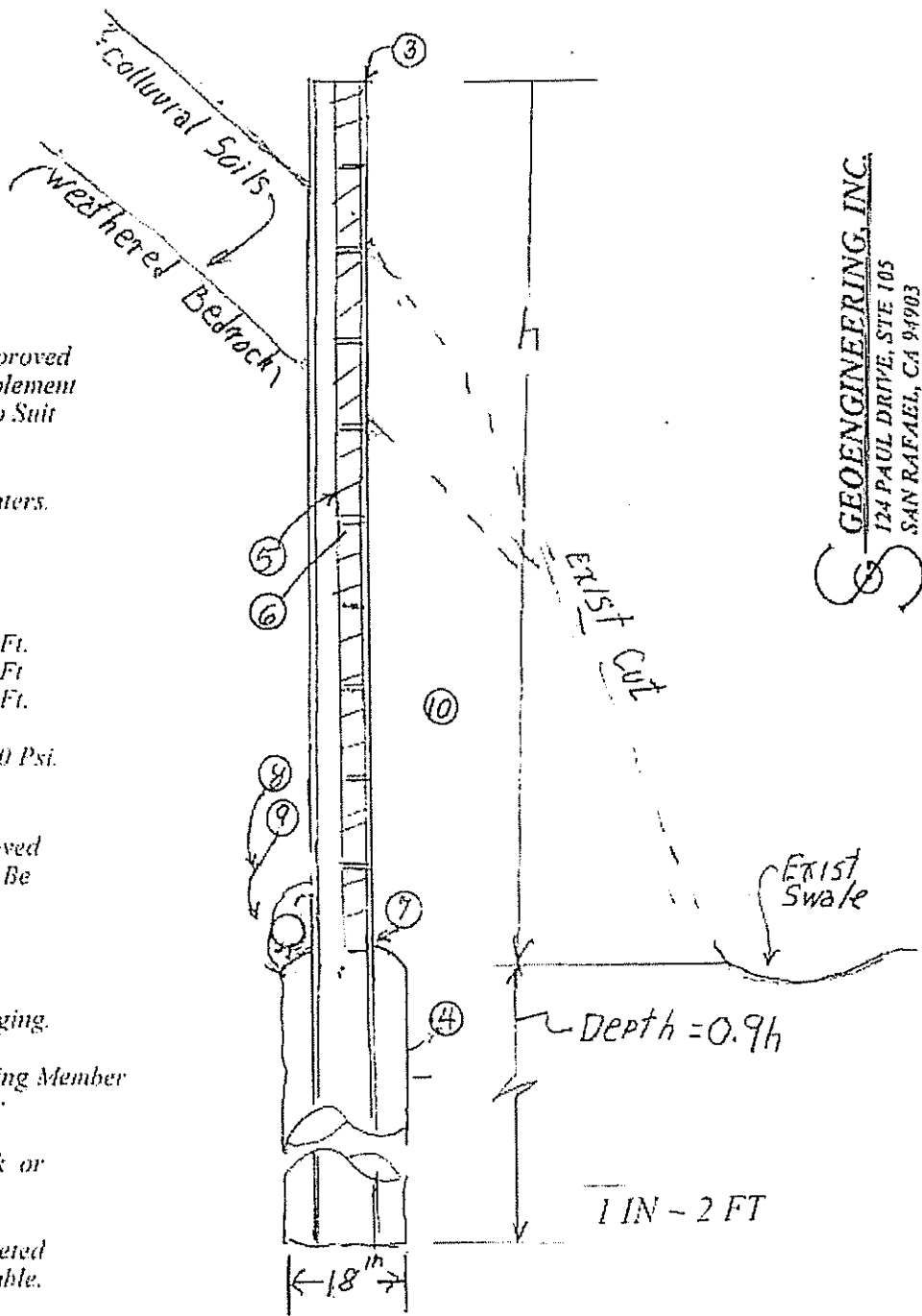
Photo 3

GE

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GEOENGINEERING, INC.
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- ① Work to Be Monitored & Approved By Engineer Who Would Implement Appropriate Modifications to Suit Exposed Conditions.
- ② Sockets Drilled on ~5 Ft Centers. Positions May Be Adjusted To Facilitate Drilling.
- ③ I-beams to Be 50 Ksi Steel; W8 X 24 or Equal for H < 10 Ft. W8 X 21 or Equal for H < 9 Ft. W8 X 15 or Equal for H < 8 Ft.
- ④ Concrete to Be at Least 2,500 Psi.
- ⑤ Lagging to Be 4X12 Grade 2 Doug Fir or Equal. & Approved For Earth Contact. Cuts Tot Be Treated with Preservative 3X12 Lagging May Suffice If Approved by Engr.
- ⑥ ~3/8 Inch Gaps Between Lagging.
- ⑦ Spacing below Bottom Lagging Member May Be Adjusted by Engineer
- ⑧ Class 2 Permeable Drainrock or Miriddrain for Buckdrainage
- ⑨ Bottom-perf Pipe May Be Deleted If Seepage at Base Is Acceptable.
- ⑩ Final Grading for Drainage to Be Developed During Construction.

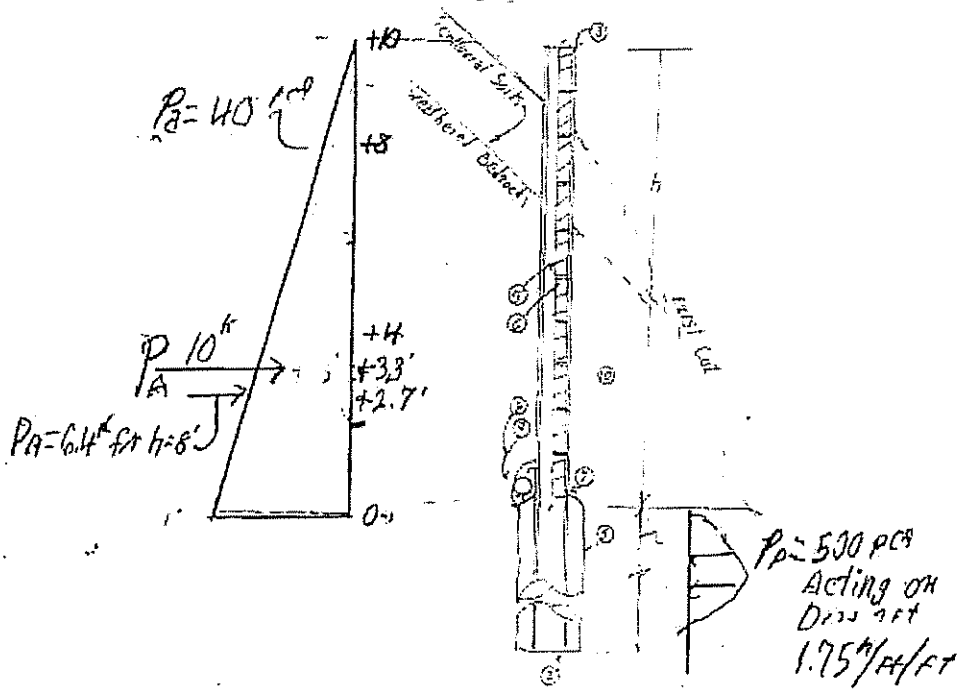


TYPICAL SECTION
 PROPOSED DRILLED I-BEAM
 RETAINING WALL
 STAIRWAY ACCESS CUT
 118 TAMALPAIS RD
 FAIRFAX, CA
 FOR AMERICAN LAND SURVEYING

Robert J. Settgast



Joe Elemen
118 Tamalpais Rd
Fairfax, CA



GEOENGINEERING, INC.
 124 PAUL DRIVE, STE 105
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$h=10'$ $P_A = 5'(40\text{PCF})(10) \frac{1}{2} = 10\text{k}$ For $h=10'$
 $Z_F = \frac{2}{3} \frac{\sum P}{F} = \frac{2}{3} \frac{10\text{k}}{1.75\text{ft}} = 2.4'$
 $M = 10\text{k}(3.3' + 2.4') = 57\text{k}' \rightarrow W 8 \times 24 (57\text{k}')$

$h=8'$ $\left\{ \begin{aligned} P_A &= 5'(40\text{PCF})(8) \frac{1}{2} = 6.4\text{k} \\ Z_F &= \frac{2}{3} \frac{\sum P}{F} = \frac{2}{3} \frac{6.4\text{k}}{1.75\text{ft}} = 1.8' \\ M &= 6.4\text{k}(2.7' + 1.8') = 29\text{k}' \rightarrow W 8 \times 15 (32\text{k}') \end{aligned} \right.$

$h=10'$ $\left\{ \begin{aligned} F_A &= \frac{2.34(10\text{k})}{\frac{8}{3}(1.75\text{ft})} = 5.0' \\ d &= \frac{5.0}{2} \left(1 + \sqrt{1 + \frac{4(3.6)(3.3')}{5.0}} \right) = 7' \\ d &= 8' \text{ is OK} \end{aligned} \right.$

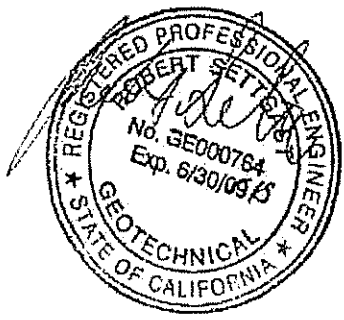
Use $d = 0.79h$ For All Cases

$W 8 \times 24$
 $W 10 \times 22$



Timber stress $\rightarrow M = 0.04 \text{ net} \times 8' \times (5')^2 / 8 = 1.0 \text{ k}' = 12\%$
 $S = 11.5''(2.6')^2 = 130 \text{ in}^3$

$f_b = \frac{12.5}{13} \rightarrow \text{OK For } 3 \times 12 \text{ (Marginal)}$



CALCULATIONS
 DRILLED I-BEAM
 RETAINING WALL
 STAIRWAY ACCESS CUT
 118 TAMALPAIS RD
 FAIRFAX, CA
 FOR AMERICAN LAND SURVEYING

Fannie Mae
Attn: Nick Rasic
Via email:
reinvest@rasic.us



URBAN FORESTRY ASSOCIATES, INC.

8 Willow Street San Rafael, CA 94901
(415) 454-4212 info@urbanforestryassociates.com

ARBORIST REPORT 118 Tamalpais Rd. Fairfax, 94930

PURPOSE

Urban Forestry Associates (UFA) was hired to assess two big leaf maple trees with the planned demolition of an existing stairway and installation of a new stairway located at 120 Tamalpais Road in Fairfax. Conclusions in regard to planned construction are based on the development plans dated 7/28/15.

SCOPE OF WORK AND LIMITATIONS

This report is not a geotechnical assessment. Urban Forestry Associates has no personal or monetary interest in the outcome of this investigation. All observations regarding trees in this report were made by UFA, independently, based on our education and experience. All determinations of health condition, structural condition, or hazard potential of a tree or trees at issue are based on our best professional judgment.

This report is strictly an urban forestry and arboricultural land use report. All opinions and conclusions are based on an urban forestry and arboricultural perspective of the effect of geology and soils on trees and other vegetation and the role of roots in erosion control, soil cohesion, anchoring of the soil mantle and soil dewatering. The identification of soil and geologic conditions at the subject property are based on our experience and inspection of the site and are essential to the understanding of the environmental role of trees at the site. This report shall not be assumed to be a structural, civil or geotechnical engineering report. If you have engineering, soil science or geotechnical concerns we recommend that you consult the appropriate licensed geotechnical engineering specialist.

GENERAL OBSERVATIONS

The subject trees are located on a heavily vegetated steep slope (approx. 62 degree). There is a mix of native tree species; big leaf maple (*Acer macrophyllum*), coast redwood (*Sequoia sempervirens*), California bay laurel (*Umbellularia californica*), and California buckeye (*Aesculus californica*). The two subject maple trees are reportedly located on the property of 118 Tamalpais although property lines were not clearly defined. The existing stairway is degraded and not in use at this time.

OBSERVATIONS

- Tree 1
- | | |
|-----------|--|
| Species | big leaf maple (<i>Acer macrophyllum</i>) |
| Size | 14.9" DBH |
| Location | -Within the footprint of the planned stairway improvements.
-12.5 feet upslope from T-1.
-8' horizontal distance from the nearest coast redwood (<i>Sequoia sempervirens</i>) tree.
-6' from the base of the main stem of the T-3, a California bay laurel. 5.5' from its' root crown. |
| Condition | Fair health and structure. It is beginning to enter early dormancy. Adjacent bay and redwood canopies limit its canopy, though it has fairly good balance upslope. There is a rope improperly connected to T-1, T-2, and T-3. It was presumably installed to provide some degree of structural support for T-2 though the rope is relatively slack and not providing much support. Soil probing found no significant voids in the soil, though adjacent hardscape limited exploration. There is a group of second growth redwood stems across and upslope from the subject tree, which appear to have originated from a sizeable mother stump. |

Conclusions The planned stairway improvement plan necessitates the removal of this tree. Due to its close proximity to adjacent trees, the species of adjacent trees, and the nature of tree root systems, the removal of this tree is unlikely to have a significant impact on slope stability. T-1 is located within the structural root zone¹ of T-3 (to be retained) indicating that many large roots from T-3 are intermingled on the slope and will continue to contribute to the slope stability if T-1 is removed. As a species, coast redwood is well known for its' extensive, fibrous root system, dewatering soils, contributing to erosion control, soil stability and soil cohesion. The subject redwood roots are likely occupying much of the same slope immediately as the subject maple trees.

General Conclusion This tree could be removed for stairway installation without concern that its removal would result in slope instability.

X Tree 2

Species big leaf maple (*Acer macrophyllum*)

Size 9.9" DBH

Location -Within the footprint of the planned stairway improvements.
-Above the cut bank at 120 Tamalpais Rd. Its canopy extends over the road.

Condition Fair health, poor structure. It is heavily suppressed under canopies of adjacent trees, and as a result has a relatively stunted canopy and severe lean over the road. It is currently beginning to go in to dormancy, evident from leaf drop and change in leaf color. It has poor structure, with a severe phototropic lean (in response to sunlight limitations) over Tamalpais Road. Soil probing (with a 4' metal probe) on the upslope side of the tree base found one void, where it inserted easily through the soil. The poorly attached rope is not contributing to structural support.

Conclusions This is a relatively small, and stunted tree with poor structure. The observed soil void likely indicates lifting of the root plate as result of the severe lean, significantly increasing the probability of failure. At this point there is a serious concern that this tree has a negative effect on soil stability. The current plans place it within the footprint of stairway improvement, necessitating its removal.

Recom'ds My recommendation is to remove this tree whether or not the new stairway is built. Whole tree removal for poor structure and stairway installation.

Tree 3

Species California bay laurel (*Umbellularia californica*)

Size Three trunks: 23.7, 12.2" DBH There is also a 16.7" CA bay connected to the down slope portion of the root crown.

Location -30' slope distance above the cut bank for the road.
-6' across slope from T-1

Condition Fair to good health and structure. The 12.2" stem was almost completely removed in the past with a large heading cut. The down slope trunk has a significant lean down slope.

Conclusions Though significant negative impacts to this tree from the proposed project are unlikely measures should be taken to protect it during demolition and construction. The plans call for a 12" pier less than 4 feet from its base (within the structural root zone). The project arborist should work with the engineer and contractor to assure the integrity. Any roots encountered over 1" diameter should be cut cleanly to reduce the chances of disease/decay entering the

¹ Radius at which roots responsible for providing structural stability are typically found, calculated by multiplying 3- 5 times the diameter at breast height. This radius helps to develop an acceptable distance at which roots can be cut without causing irreversible harm to the health and/or structural stability of a tree.

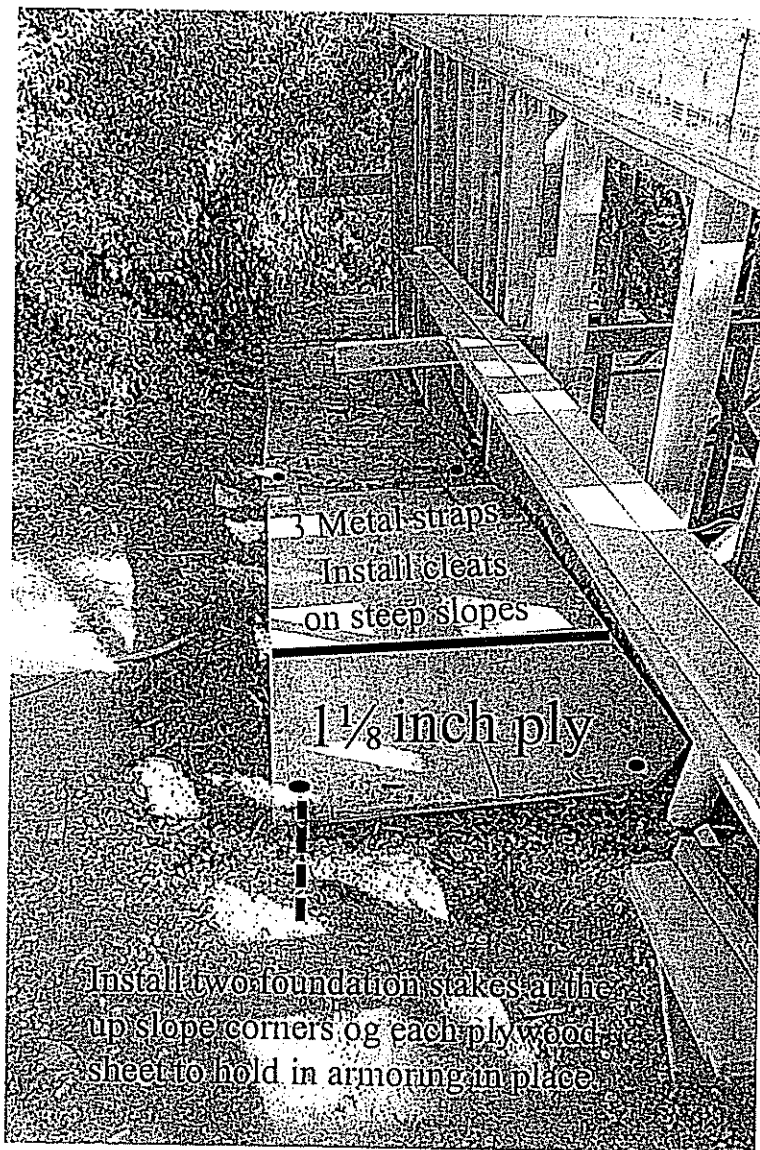
root. Hand excavation to locate and cut roots should be performed prior to drilling the pier closest to this tree.

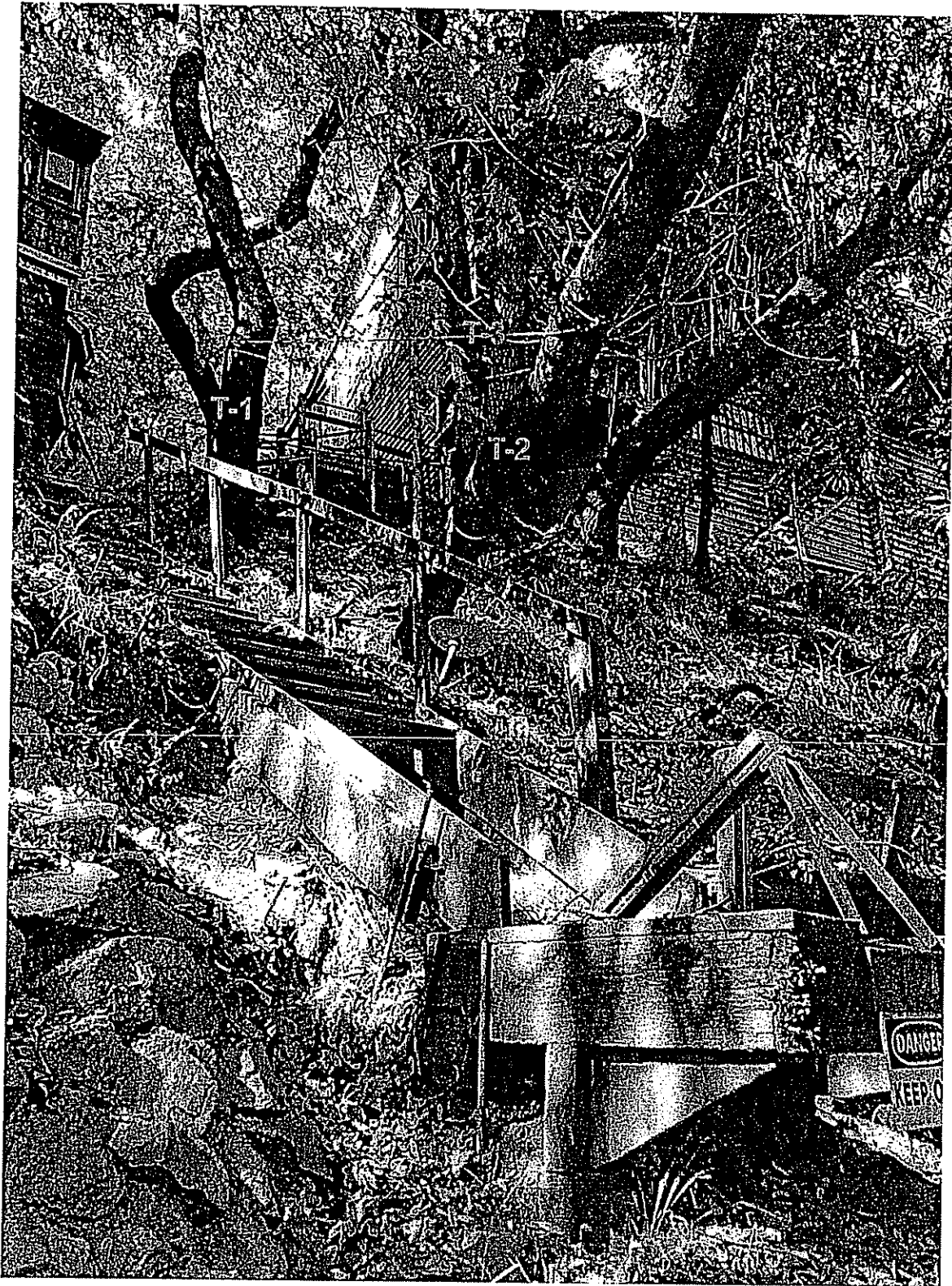
All other structural members of the proposed stair should be at or above grade. Soils and roots must be armored during construction.

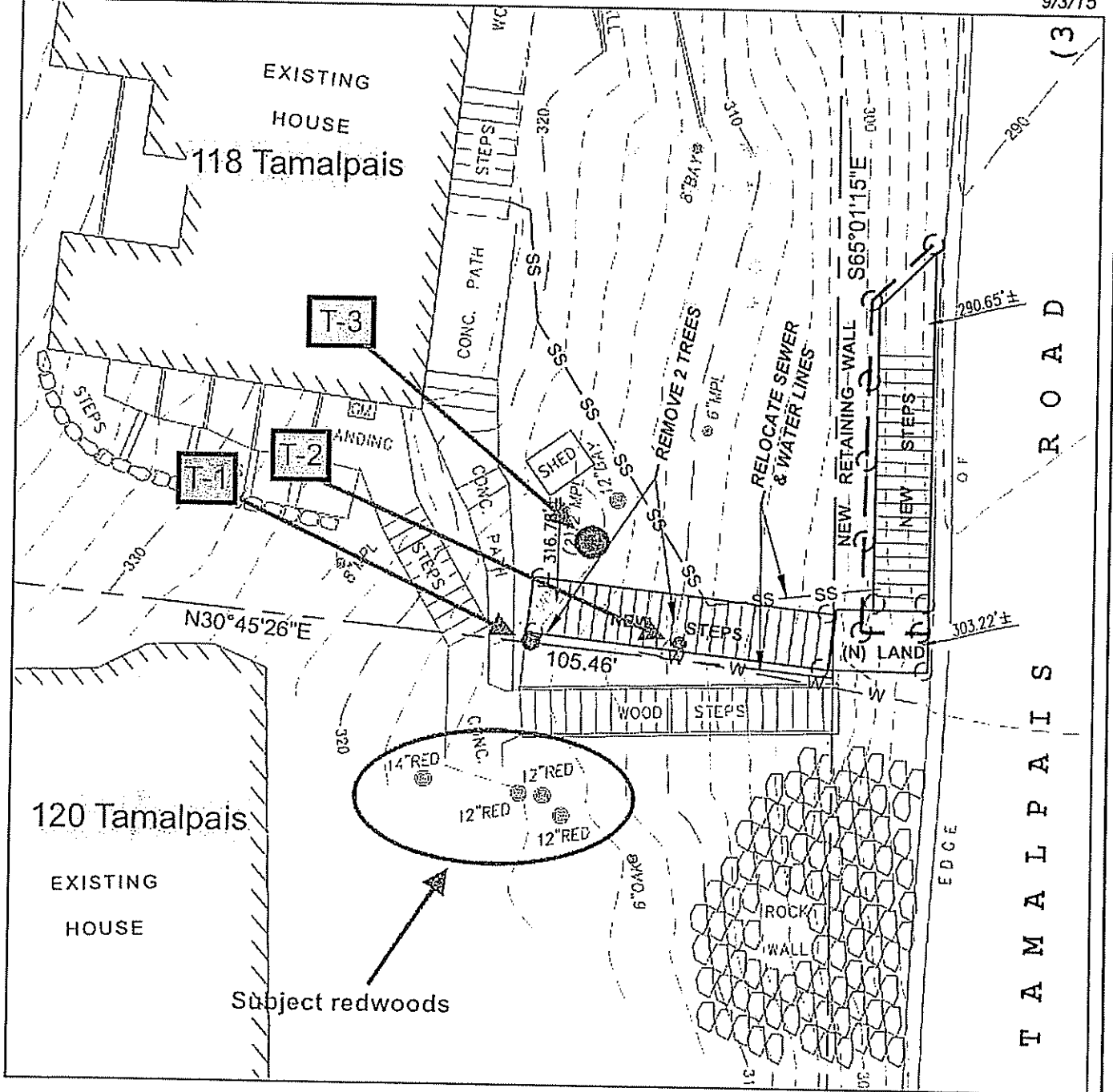


Ray Moritz, Urban Forester SAF Cert #241
ISA Certified Tree Risk Assessor

Soil Armoring







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TAMALPAIS ROAD

Subject redwoods

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ATTORNEY AT LAW
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January 20, 2017

Linda Neal
Town of Fairfax- Principal Planner
142 Bolinas Road
Fairfax, CA 94930

Re: Appeal of Building Permit and Variance Application for 118 Tamalpais Road

Dear Linda:

I am writing on behalf of Walter Bess, Jr. in regard to the status of his appeal of the Fairfax Planning Commission's conditional approval of the front stairway building permit application of Federal National Mortgage Association ("Fannie Mae").

My clients objected to Fannie Mae's original application for a building permit on several grounds including:

1. Removal of two maple trees that appear to straddle the boundary between 120 Tamalpais, which Mr. Bess owns, and 118 Tamalpais;
2. The proposed stairway at 118 Tamalpais would be well within the mandatory five foot side yard set-back with 120 Tamalpais that is required under Fairfax Town Code section 17.040.020 (C). Accordingly, the first stairway construction plan required a side-yard set-back variance approved by the Fairfax Planning Commission.
3. The previous stairway, located on 120 Tamalpais, served both 118 and 120 Tamalpais which were subdivided many years ago. There was no indication that the applicant would share the new stairway with 120 Tamalpais or record an easement to that effect.
4. Compliance with the safety and construction specifications outlined by Mr. Bess's consulting engineer, Craig Herzog.

As you recall, a condition of the Planning Commission's approval of the application was that Town Engineer, Ray Wrynski, would need to review and approve the proposed plans. Mr. Wrynski subsequently did a report which called for substantial revision of the plans. I have attached a copy of his report for your immediate reference. As a starting point for purposes of the status of the appeal, can you please let us know whether Mr. Wrynski has reviewed FNMA's plans to determine whether they are in compliance with his revisions?

In addition to needing to know whether the plans have been reviewed and approved as required, the following issues remain:

1. There is still no indication whether Fannie Mae is willing to give 120 Tamalpais

Letter to Linda Neal
Re: 119 Tamalpais Road Appeal
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an easement to use the proposed new stairway. As set forth above, 120 and 118 Tamalpais were originally a single lot which was split into the two existing parcels. Mr. Bess purchased 120 Tamalpais from his neighbor for a nominal sum many years ago and still owns the lot. The previous stairway served both 118 Tamalpais and 120 Tamalpais for decades and cessation of rights of passage for 120 is unfair and will further devalue 120 Tamalpais;

2. Fannie Mae's plans call for installing new and separate sewer and water line services for 118 Tamalpais. There is no indication on the plans that the existing water and sewage lines that serve 120 Tamalpais will be left intact;

3. Additionally, our consulting engineer, Craig Herzog has indicated that the following engineering problems remain in the revised plans:

- a. The Miradrain (misspelled) panels on Section A of Sheet 5 should be terminated a foot below finished grade to preclude surface water from entering the backdrain system;
- b. Provisions should be made to intercept runoff at the top of the wall and convey it to an approved outlet at the street.
- c. There should be a provision that applicant's GeoEngineering consultant will specifically inspect site grading, temporary slopes, shoring installation, pier drilling and dewatering, footing excavation, backdrain installation, wall backfill placement and compaction. Upon project completion, a report should be provided certifying that these items are in conformance with their recommendations.

4. It is unfair for the Town of Fairfax to issue a building permit for major renovations to the property until the litigation concerning ownership is resolved. If FNMA is allowed to build stairs and a retaining wall on 118 Tamalpais, they will thereafter seek to evict Walter and Rebecca Bess from their home. Moving at this stage of the litigation will irreparably prejudice their rights and cause extreme financial and physical hardship for them. Walter Bess has been classified as TTD (Temporary Total Disability) by workers compensation doctors from Sept 2015 to the present day. He is also recovering from cancer radiation treatment which was completed Nov 2016. Rebecca Bess has physical limitations regarding lifting, carrying and walking. She, also, has a nurse that comes to the home once per week for IV infusions due to a primary immune deficiency.

Can you please let us know about the Town Engineer's review of the plans and if any of these items can be resolved informally at your earliest convenience? In the meantime, thank you for your time and consideration.

Sincerely yours,


LAWRENCE BRAGMAN



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
PHONE (415) 453-1584 / FAX (415) 453-1618

MEMORANDUM

To: Linda Neal – Principal Planner

Date: August 1, 2016
Page 1 of 3

From: Ray Wrynski
Town Engineer

Subject: Proposed Access Stairs
118 Tamalpais Road
Fairfax, CA

A.P. 001-121-61

This memorandum provides the comments and requirements you requested for this project.

Two site reviews were done and during one site review, the owner of 120 Tamalpais Road, saw me at the site and discussed, with me, the project of the proposed stairs.

Documents, for this project, that were reviewed included plans from American Land Surveying, dated 2/27/16 (7 pages), the 4/21/16 letter from Geoengineering, Inc., The 9/3/15 report by Urban Forestry Associates, Inc., The 6/13/13 preliminary title report from Old republic Title Co., the 5/10/16 letter from attorney Lawrence Bragman, the 3/24/15 repair proposal from Engineered Soil Repair, Inc. and the 12/19/14 report from Herzog Geotechnical Consulting Engineers.

A question you noted that needed an answer was my judgment of the probability that the proposed construction of the stairs, with the retaining wall, may cause stability problems at the rock rip-rap hillside stabilization that was placed in March of 2011.

The 4/21/16 letter by Geoengineering notes minor sloughage but does not state any concern for stability. The 12/19/14 Herzog report concludes that the cut bank in this area is subject to continuing sloughing and possible larger failures. A 3/23/11 photo (from the rip-rap work) shows that there was soil sliding or sloughing under and just easterly of the existing wood stairs. This is in an area where there appears to be some bedrock exposed so that apparent bedrock structure, in this location, is not a reliable indicator of stability.

Based on the above information, I find that the easterly end wing-wall, for the proposed new stairs retaining wall, will create an unneeded potential for damage, from instability, to the grouted rock slope repair. Excavation and work like drilling for piers, in steep banks that have low strength will often dislodge chunks of soil and there is no justification for risking that kind of damage at this location.

The retaining wall and stair structure must be moved about five lineal feet northwesterly to get it away from the rip-rap structure and away from the subdrain outlet for the rip-rap structure. This movement of the planned construction will also solve the problem of disrupting the water service to 120 Tamalpais Road. That water service location is shown a little incorrectly on the topographic base map in the plans.

The water line goes uphill under the existing stairs onto the property of 120 Tamalpais Drive. There is no easement shown on the plan for a waterline to cross 120 Tamalpais Road and serve 118 Tamalpais Road. This water line location seems to indicate an access problem for the water service to 118 Tamalpais Drive. The owner of 120 Tamalpais drive, Mr. Bess, told me he thought that the water line went up the hill and then split to serve the two properties. This might be true and it might be workable when 118 and 120 Tamalpais Road were owned by the same person. This is a very odd water service condition and probably is not workable with these properties in separate ownership. The correct existing water service location must be shown on the plans and the water meter or meters that serve 118 and 120 Tamalpais Road must be shown so that it is clear if there is an access and service problem for water supply to 118 Tamalpais Road. If there is no legal water service to 118 Tamalpais Road, that will have to be corrected.

There are a number of easements shown on the title report that affect the 118 Tamalpais Road. A note must be added to the topographic survey stating that all easements, affecting the proposed construction area, from the title report, are shown. If there are no easements, affecting the construction area, then a note stating this must be added to the topographic survey.

The question of ownership of two Maple trees is raised in the 5/10/16 Bragman letter. The proposed stairs appear to require removal of these two trees, the ones called 6" MPL and 10" MPL on the survey. These trees are somewhat larger than 6" and 10" and are called 9.9" and 14.9" in the Urban Forestry Associates report. The Town should not permit work that requires the removal of trees that cannot be removed because of an ownership conflict. The property line is shown to be very close to these trees and since the lower portion of the trees is irregular that part of each tree may be crossing the property line even though the topographic survey does not seem to indicate that. To resolve this question the property line must be staked in the field so that a string line, on the property line, can be set through the area of the tree locations and visually checked by Town staff and by the respective property owners to determine if there is a question of tree ownership. After that field check, the disposition of the trees can be resolved. The topography also shows two 12" MPL trees near the northerly side of the new stairs and these trees are more correctly called 23.7" and 12.2" bay laurel in the Arborist report. All these trees may be affected by the construction so their identification is important.

The Bragman letter raises the question of the accuracy of the property line location, primarily, because the property corner near the street was found to be set in the wood deck of the existing damaged stairs. This deck could have moved when the landslide below 120 Tamalpais road occurred or it could have moved due to aging of the wood stairs and weathering of the steep slope. Confirming information must be provided either on the survey or in a letter from the surveyor as to how it was determined that the property line location, shown on the topographic survey, is correct. I will assume that the line length shown was field measured and found to be the length for that line shown on the referenced recorded record of survey. If the property corner at the street had been shifted by movement of the deck it would not satisfy an angular check of the property line, that is shown, based on a field measurement of the angle of this property line relative to one of the other property lines shown on the record of survey. This check or another suitable check will resolve this question. This angular check should be possible by turning an angle from the southerly (uphill) end of the property line shown where the back line (northeast – southwest) intersects the property line shown on the topography along the southeasterly side of the 118 Tamalpais Road site. After the property line location is confirmed several, fairly permanent points on the property line, near the construction area must be set to be used to check tree locations and to check the

construction work along the property line as the work progresses. The relationship of these points to the front property corner must be provided. If these points are lost during the construction they will have to be reset. The survey work information, described above must be provided on the plan or in a letter to the Town with the signature and seal of the surveyor responsible for it. Since the survey work already provided to the Town is given as the responsibility of Robert Settgast, he appears to be the professional providing the signature and seal covering this additional boundary surveying work. This also includes the easement work described above. I know that Mr. Settgast is showing his geotechnical license on the plan but that is carried by his civil engineer's license which includes surveying authority. Mr. Settgast has never, to my knowledge, provided land surveying work so he probably will not be signing for the surveying work and probably did not intend to be the only licensed person signing the topographic survey with boundary information. Whoever did the surveying work that has been provided and will be provided must place their signature and seal on the copies of this information provided to the Town.

The plans state that the work on the water line and sewer line is to be as required by the City of Fairfax. This must be changed to be done as required by the Marin Municipal Water District and the Ross Valley Sanitary District. Also, a note must be added to the plans stating that all parts of the new stair structure and retaining wall construction shall be a minimum of three feet clear of the westerly edge of the vehicular travel lane of Tamalpais Road.

Regarding statements in the Urban Forestry (Arborist) report about the trees, there is the suggestion that Tree 1 is near some Redwood Trees and the bay tree and that those trees will contribute to the slope stability. That may be true but since I have seen so many healthy trees go downhill with landslides, I do not look at trees as a significant factor in stabilizing a low stability hillside. The arborist report stated Tree 2 has a severe lean and for that and other reasons it has a negative effect on soil stability. I agree completely with the report on this tree. Mr. Bess told me he would like that tree to stay so that is his feeling. I believe the tree can be expected to rotate and uproot at some time in the near future and that will result in quite a bit of damage to the slope. If that tree is removed or cut off at ground level that will be positive factor in reducing probable damage to this steep slope area.

Something worth considering at this location would be building the proposed stairs with an extended landing at the top of the retaining wall that would serve both 118 and 120 Tamalpais Road. This would eliminate the need to build more stairs at this location in the future for 120 Tamalpais Road. I realize this would put the structure back close to the rock rip-rap repair where I do not want the soil disturbance to be. I believe this could be done successfully with careful soils engineering inspection and construction near the rip rap. The stairs up to this first landing would be in the street right of way and could be designated for the use of the two properties and designated to be maintained by the two properties. If this could be done it would resolve the access issue for both properties fairly well. The stairs in the right of way that are proposed must be covered by an encroachment permit as required by Code Section 12.32.

I recommend that the processing of this project be delayed until the above required information is received.



Ray Wrynski, P. E.
Town Engineer



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
PHONE (415) 453-1584 / FAX (415) 453-1618

MEMORANDUM

To: Linda Neal – Principal Planner

Date: January 26, 2017

From: Ray Wrynski
Town Engineer

Page 1 of 2

Subject: Proposed Access Stairs
118 Tamalpais Road
Fairfax, CA

A.P. 001-121-61

This memorandum provides my comments on the January 20, 2017 letter, by Attorney Lawrence Bragman, related to the stairs at this site that you sent to me with your 1/25/17 e-mail. You asked that I review the recommendations from Mr. Best's engineer and comment on their acceptability.

To try and be sure I have answered all the questions that may be posed by the attorney's letter, I will provide information on all the items I see in it. It is not entirely clear what may be only a concern of the attorney and what may be a concern of the engineer. I want to avoid trying to include the requirements of the Geotechnical Engineer, Craig Herzog, in this project permit since we have sufficient information for the project in the plan approval and report provided by the applicant's Geotechnical Engineer, Mr. Settgast. By project, I mean the stairs. Mixing the requirements of one engineer who is retained by the applicant with the requirements of another engineer who is retained by a party in dispute with the applicant would create an unclear construction situation. If there is to be a mixing of the requirements of the two engineers, I am inclined to think that would have to be done based on requirements we do not have as might exist in a settlement agreement or a judge's order.

Mr. Bragman's letter includes the 8/1/16 Town Engineer review memorandum. It should have included the 10/25/16 Town Engineer review memorandum and the 12/6/16 e-mail that I provided with what I thought would be final comments on the stair project. Mr. Bragman may not have known about those documents. I have reviewed the 4/21/16 Re-Evaluation of the stairs by Mr. Settgast and the 11/16/16 plans signed by Mr. Settgast.

In the 1/20/17 letter with the first set of four items, item 1., the maple trees are shown to remain in place. Item 2., of the letter, is the stairway location and that was moved northwesterly away from the property line. I assume that any setback requirement has been resolved by that movement or by some approval process. Item 3., of the letter, involved joint use of the proposed stairway. That issue was raised in the 8/1/16 review memorandum and the Town did not get a response indicating that the applicant wanted to get involved in joint use of the stairs. I do not know of a basis that the Town would want to force a joint use of the proposed stairs. Item 4., of the letter, involves the requirements of Craig Herzog. Mr. Herzog's 12/19/14 report is complex and deals with many issues at this site. Determining how the findings, in Mr. Herzog's report, could or should be applied to the stair project could only be practically done if he was acting as a project engineer, perhaps alongside Mr. Settgast. I don't think that is going to be done. I do

believe Mr. Settgast is qualified to provide geotechnical engineering services for construction of this project.

The letter has a second set of four items. Item 1. deals with the joint use of the stairs but mentions obtaining an easement for 120 Tamalpais Road. As noted above, I do not know of a basis that the Town would want to force a joint use of the stairs or require that an easement be provided for 120 Tamalpais. Item 2. discusses new and separate sanitary sewer and water line services. It is not known to me that there is a joint use sanitary sewer lateral pipe line serving both properties. If there is that would be new information. Regardless, the plans show relocating part of the existing sewer lateral that serves 118 Tamalpais. It was noted in the 10/25/16 review that the sewer lateral relocation must satisfy the Sanitary District Requirements and as noted in the 12/6/16 e-mail, a portion of the sewer lateral work must satisfy the Town Building Code requirements. Mr. Bragman can check with the Sanitary District to determine if there is any intention to cut off sewer service to 120 Tamalpais Road and, if so, why that might be done. Regarding the water service, the 12/6/16 e-mail provided a condition for the work that the water service to 120 Tamalpais be maintained. Item 3. has three items attributed to Craig Herzog. Item a., Miradrain (misspelled ?) should terminate a foot below finished grade. The plan shows that but not to the detail that Mr. Herzog would prefer. I would leave getting the Miradrain (MiraDRAIN ?) correct placement to the field review as required in the Settgast report. The one foot below grade placement is standard practice. Item b. notes a need for a drainage intercept at the top of the wall. That is a desirable detail and on the assumption that Mr. Settgast would not have resolved that in the field, it should be a condition of the permit. Item c. asks for GeoEngineering to provide inspection (as called for in the report) and for a final approval letter. I think if such a letter is not always required in the permit for this type of work, that letter should be made a permit condition. Item 4. discusses the fairness of issuing a permit while ownership litigation is continuing. Health problems of Mr. and Mrs. Bess are noted as additional circumstances. I do not know how the Town can be an interested party in the litigation. Perhaps the Town Attorney can advise you on that.

I believe the Town has looked at this stair project carefully. You may want to provide a copy of this memorandum, the 10/25/16 memorandum and the 12/6/16 e-mail to Mr. Bragman. That may indicate to him that many details have been reviewed.

I hope this provides the information you need. Please let me know of any questions you have for me on this issue.



Ray Wrynski, P. E.
Town Engineer

Law Offices of
GLENN H. WECHSLER
1111 Civic Drive, Suite 210
Walnut Creek, California 94596
Telephone: (925) 274-0200 ♦ Facsimile: (925) 274-0202
Email: claudia@glennwechsler.com

February 7, 2017

VIA U.S. MAIL and E-MAIL: ineal@townoffairfax.org

Ms. Linda Neal
Town of Fairfax - Principal Planner
142 Bolinas Road
Fairfax, CA 94930

RE: **Planning Commission Meeting: February 16, 2017**
Property: 118 Tamalpais Road, Fairfax

Dear Ms. Neal:

This letter shall serve to correct the multiple misstatements set forth in attorney Lawrence Bragman's January 20, 2017 letter to you. Mr. Bragman failed to serve us with a copy despite knowing that our office represents Federal National Mortgage Association ("Fannie Mae"), the property owner of 118 Tamalpais Road in Fairfax (the "Property").

Procedural History

Fannie Mae acquired title to the Property in July 2011 after a foreclosure sale. A true and correct copy the Trustee's Deed Upon Sale is enclosed herewith as **Exhibit A**. The Besses made their last mortgage payment in October of 2010, yet they have managed to stay in the property for over 2,017 days or 6 years and 3 months since then. The Besses refused to vacate the Property so Fannie Mae filed an eviction action. The eviction court issued a Judgment for Possession in favor of Fannie Mae in October 2011. A true and correct copy of the Judgment is enclosed herewith as **Exhibit B**. **The Court determined – over 5 years ago – that Fannie Mae is entitled to possession of the Property.**

Nevertheless, the Besses continue to holdover at the Property, avoiding enforcement of a writ for lock out by claiming the lack of stairs make it unsafe for them to move out. However, the video you showed at the May 19, 2016 Planning Commission Meeting demonstrates how the Besses **unsafely** access the Property **daily**, and have so for over five years. This means that for five years they have managed to carry groceries and other household goods in, and managed to move trash out. Fannie Mae took the position the lack of safe stairs makes it difficult for emergency personnel to access the Property, which impacts the safety of the Besses and others. However, the local fire department did not agree with Fannie Mae.

Despite their numerous complaints over the years about the lack of safe access, the Besses have done everything possible at every juncture to frustrate and prevent Fannie Mae from building new, safe access to the Property!

ATTACHMENT I

On May 19, 2016, the Planning Commission issued the requested side-yard setback variance and retaining wall height variance, conditioned on the Town Engineer, Ray Wrynski, approving Fannie Mae's plans. Mr. Wrynski reviewed Fannie Mae's plans and requested that Fannie Mae make minor revisions thereto. Fannie Mae made the requested revisions. Ultimately, **Mr. Wrynskink approved Fannie Mae's revised stair plans.** Fannie Mae now requests the Planning Commission re-issue the side-yard set-back variance and retaining wall height variance (and encroachment permit) so that Fannie Mae can begin construction of the stairs.

Fannie Mae's Response to Mr. Bragman's January 20, 2017 Letter

The four objections set forth on the first page of Mr. Bragman's letter are irrelevant because the Town Engineer, Mr. Wrynski, has **approved** Fannie Mae's revised stair plans. However, we briefly address each of the objections. First, Fannie Mae's revised plans do **not** call for the removal of any trees, let alone trees that "appear to straddle" the Property and the neighboring property at 120 Tamalpais Road, which Mr. Bess owns. Second, the Planning Commission previously issued the required variances to construct the stairs, conditioned on Mr. Wrynski approving Fannie Mae's stair plans. Mr. Wrynski has since approved Fannie Mae's revised stair plans. Third, Fannie Mae is not required to share the stairs with 120 Tamalpais Road. Fourth, Fannie Mae is not required to construct the stairs pursuant to the specifications outlined by Mr. Bess' engineer. Instead, approval by Mr. Wrynski is all that is required.

The first three "remaining issues" starting at the bottom of page 1 of Mr. Bragman's letter are also irrelevant to the determination of whether Fannie Mae should be issued a side-yard setback variance and a retaining wall height variance to implement the revised stair plans approved by Mr. Wrynski. First, whether Fannie Mae will share the stairs with 120 Tamalpais Road – which has been vacant and condemned for over 30 years - has no impact on whether the stairs are safe and Code-compliant. Second, Fannie Mae's installation of new sewer and water lines does not affect the old lines. Inquiry into this topic implies the Besses are considering occupying 120 Tamalpais Road, which is of no concern to Fannie Mae and should have no impact on issuance of the variances. Third, Mr. Wrynski has approved Fannie Mae's revised stair plans, which indicates the 3 issues set forth in paragraph 3, on page 2, of Mr. Bragman's letter are not required by the Code. Further, Fannie Mae is **not** required, as requested in paragraph 3(c), to provide a report certifying that it complied with all requests of Mr. Bess' engineer. Instead, Fannie Mae will comply with its obligation to certify **to the Town** that all requirements of the building permit have been satisfied.

The fourth "remaining issue" in Mr. Bragman's letter is the crux of the Besses' argument against construction of safe stairs to the Property. Contrary to Mr. Bragman's argument, it is **not** "unfair" to issue the variances while the litigation between the Besses and Fannie Mae is ongoing. As discussed above, the Court determined – over five years ago – that Fannie Mae is entitled to possession of the Property. That is true regardless of the outcome of the civil litigation that remains pending. Yet the Besses have delayed enforcement of the court's 2011 order granting Fannie Mae possession by alleging unsafe access/egress. When Fannie Mae took steps to provide safe access/egress, the Besses have and continue to unfairly interfere with the planning and approval

process. The actions of the Besses and their counsel are self-serving and are resulting in improper leveraging in their litigation against Fannie Mae. The Besses have an interest in continuing to delay, since they have avoided paying a mortgage or fair market rent for over 6 years and 3 months. Thus, the Besses' claim of "financial hardship" is fabricated. Moreover, the Besses' claim of "physical hardship" is likely greatly exaggerated if not a plain misstatement of fact. As seen in the video you showed at the May 19, 2016 Planning Commission Meeting, the Besses currently access the Property *daily* via stairs at 124 Tamalpais Road, and then manage to walk through the terrain for ingress or egress. They cannot have it both ways by saying, on the one hand, they have no safe way to move out, and then on the other hand deny the property owner a chance to provide safe access.

In sum, Mr. Bragman and his clients have not provided any legitimate or compelling reason why Fannie Mae should be denied the side-yard setback variance and retaining wall height variance necessary to construct the stairs pursuant to the revised stair plans approved by the Town Engineer, Ray Wrynski. At the end of the day, Fannie Mae is improving the safety of its property to ensure safe access for everyone. The Besses should not be permitted to continue to frustrate the process for their own self-serving reasons. The court ruled in 2011 that the Besses have no right to possession of the property. Therefore, Fannie Mae respectfully requests that the variances be issued so that Fannie Mae can immediately begin working to construct safe stairs at the Property.

Very truly yours,



CLAUDIA WILLIAMS

GHW/CLW/db

Enclosures: as stated

cc: Lawrence Bragman, Esq. (via facsimile (415) 459-6067)

EXHIBIT A

to
DTT
me

RECORDING REQUESTED BY
RECONTRUST COMPANY
AND WHEN RECORDED MAIL TO:
RECONTRUST COMPANY
1800 Tapo Canyon Rd., CA6-914-01-94
SIMI VALLEY, CA 93063

2011-0040440
Recorded
Official Records
County of
Marin
RICHARD N. BENSON
Assessor-Recorder
County Clerk
REC FEE 24.00
ES
09:42PM 16-Aug-2011 Page 1 of 4

Forward Tax Statements to Address listed above

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TS No. 11-0028466
Title Order No. 110181322

This instrument is being recorded as an
ACCOMMODATION ONLY, with no
Representation as to its effect upon title.

TRUSTEE'S DEED UPON SALE

APN# 001-121-61

TRANSFER TAX: \$ 0

The Grantee herein was the beneficiary
The amount of the unpaid debt was \$ 354,751.21
The amount paid by the Grantee was \$ 353,220.56
The property is in the city of FAIRFAX, County of MARIN

RECONTRUST COMPANY, N.A., as the duly appointed Trustee (or successor Trustee or substituted Trustee), under a Deed of Trust referred to below, and herein called "Trustee", does hereby grant without covenant or warranty to:

FEDERAL NATIONAL MORTGAGE ASSOCIATION

herein called Grantee, the following described real property situated in MARIN County, California:

SEE ATTACHED LEGAL DESCRIPTION

This conveyance is made pursuant to the powers conferred upon Trustee by the Deed of Trust executed by WALTER B BESS JR, as Trustor, recorded on 04/23/2008, Instrument Number 2008-0018692 (or Book , Page) Official Records in the Office of the County Recorder of MARIN County.

All requirements of law regarding the recording and mailing of copies of the Notice of Default and Election to Sell, and the recording, mailing, posting, and publication of the Notice of Trustee's Sale have been complied with.

Form trustee deed (01/09)

EXHIBIT 1

15

TS No. 11-0018466

Title Order No. 110181322

Trustee, in compliance with said Notice of Trustee's Sale and in exercise of its power under said Deed of Trust sold said real property at public auction on 07/29/2011. Grantee, being highest bidder at said sale became the purchaser of said property for the amount bid, which amount was \$ 353,220.56.

DATE: ~~July 29, 2011~~ *[Signature]*

AUG 09 2011

RECONTRUST COMPANY, N.A.

BY: *[Signature]* AUG 09 2011

Flor Valerio, Authorized Signer
Assistant Vice President *[Signature]*

State of California)

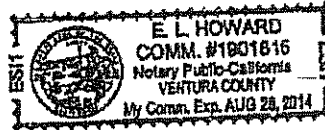
County of Ventura)

On AUG 11 2011 before me, EL HOWARD

Flor Valerio, notary public, personally appeared Flor Valerio, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature *E. Howard* (Seal)
EL HOWARD



Form Irredeemable (01/09)

EXHIBIT 1

ORDER NO: 110181322

EXHIBIT A

REF. NO. 11-0028488

PARCEL ONE:

LOTS 30, 33 AND 34, BLOCK D, AMENDED MAP OF FAIRFAX MANOR, MARIN COUNTY, CALIFORNIA, FILED APRIL 8, 1919 IN THE OFFICE OF THE RECORDER OF MARIN CO., CALIFORNIA IN BOOK 5 OF MAPS AT PAGE 4.

PARCEL TWO:

AN EASEMENT FOR VEHICLE PARKING (2 PARKING STALLS) OVER A PORTION OF LOT NO. 2, IN BLOCK "C" MAP OF FAIRFAX MANOR SUBDIVISION NO. 2 FILED FOR RECORD ON SEPTEMBER 17, 1913 IN BOOK 4 OF MAPS, AT PAGE 63, MARIN COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 2, IN BLOCK 3, AND RUNNING THENCE ALONG THE NORTHWESTERLY LINE THEREOF NORTH 27° 44' EAST 22 FEET, THENCE LEAVING SAID NORTHWESTERLY LINE OF SAID LOT 2, AND RUNNING SOUTH 66° 32' 15" EAST 28.0 FEET TO A POINT RUNNING THENCE SOUTH 27° 48' WEST 22 FEET TO THE NORTHEASTERLY LINE OF TAMALPAIS ROAD, RUNNING THENCE, ALONG SAID ROAD LINE NORTH 66° 32' 15" WEST 13.8 FEET AND NORTH 63° 01' 15" WEST 14.1 MORE OR LESS TO THE POINT OF BEGINNING.

Certificate of Acceptance, Government Code Section 27281

This is to certify that the interest in Real Property conveyed by the attached Trustee Deed

Dated Aug 9, 2011 from ReconTrust Company N.A. to the Federal National Mortgage Association, is hereby accepted by the undersigned officer or agent on behalf of Housing the Federal National Mortgage Association and the Grantee consents to the recordation thereof by its Duty Authorized Officer.

FEDERAL NATIONAL MORTGAGE ASSOCIATION AND/OR HIS SUCCESSORS AND/OR ASSIGNS

Pursuant to a delegation of authority
Contained in 38 C.F.R. 36.4343 (F)

State of California

BY:

AUG 09 2011

County of: Ventura

AUG 11 2011

Flor Valero Assistant Secretary Assistant Vice President

On _____ before me, EL HOWARD, notary public, personally appeared who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify, under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature E. L. Howard (Seal)

EL HOWARD

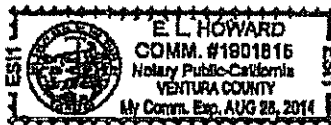


EXHIBIT 1

EXHIBIT B

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):
NANCY E. POWELL #275754
MALCOLM & CISNEROS, a Law Corporation
2112 BUSINESS CENTER DRIVE
SECOND FLOOR
IRVINE, CA 92612
 TELEPHONE NO.: (949) 252-9400 FAX NO. (Optional): (949) 252-1032
 E-MAIL ADDRESS (Optional):

FOR COURT USE ONLY

FILED

OCT 31 2011

KIM TURNER
 Court Executive Officer
 MARIN COUNTY SUPERIOR COURT
 By: T. Fraguero, Deputy

ATTORNEY FOR (Name): **FEDERAL NATIONAL MORTGAGE ASSOCIATION**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN
 STREET ADDRESS: 3501 Civic Center Drive
 MAILING ADDRESS: 3501 Civic Center Drive
 CITY AND ZIP CODE: San Rafael, CA 94903
 BRANCH NAME: Marin

PLAINTIFF: **FEDERAL NATIONAL MORTGAGE ASSOCIATION**

DEFENDANT: **WALTER B. BESS JR, an individual**

JUDGMENT—UNLAWFUL DETAINER

By Clerk By Default After Court Trial
 By Court Possession Only Defendant Did Not Appear at Trial

CASE NUMBER:
CIV1104413

JUDGMENT

1. **BY DEFAULT**
- a. Defendant was properly served with a copy of the summons and complaint.
 - b. Defendant failed to answer the complaint or appear and defend the action within the time allowed by law.
 - c. Defendant's default was entered by the clerk upon plaintiff's application.
 - d. Clerk's Judgment (Code Civ. Proc., § 1169). For possession only of the premises described on page 2 (item 4).
 - e. Court Judgment (Code Civ. Proc., § 585(b)). The court considered
 - (1) plaintiff's testimony and other evidence.
 - (2) plaintiff's or others' written declaration and evidence (Code Civ. Proc., § 585(d)).

2. **AFTER COURT TRIAL**. The jury was waived. The court considered the evidence.
- a. The case was tried on (date and time): **OCTOBER 20, 2011, at 8:30 AM**
 before (name of judicial officer): **LYNN DURYEE**
 - b. Appearances by:

<input checked="" type="checkbox"/> Plaintiff (name each): FEDERAL NATIONAL MORTGAGE ASSOCIATION	<input checked="" type="checkbox"/> Plaintiff's attorney (name each): (1) SYDNEY FAIRBAIRN SPECIAL APPEARANCE (2)
---	--
 - Continued on Attachment 2b (form MC-025).
 - Defendant (name each): **WALTER B. BESS, JR.** Defendant's attorney (name each):

(1) (2)	<input type="checkbox"/> Defendant's attorney (name each): (1) (2)
----------------	--
 - Continued on Attachment 2b (form MC-025).
 - c. Defendant did not appear at trial. Defendant was properly served with notice of trial.
 - d. A statement of decision (Code Civ. Proc., § 832) was not was requested.

COURT

PLAINTIFF: FEDERAL NATIONAL MORTGAGE ASSOCIATION
 DEFENDANT: WALTER B. BESS JR, an individual

SE NUMBER:
 CIV1104413

JUDGMENT IS ENTERED AS FOLLOWS BY: THE COURT THE CLERK

3. Parties. Judgment is

a. for plaintiff (name each): FEDERAL NATIONAL MORTGAGE ASSOCIATION
 and against defendant (name each): WALTER B. BESS JR, an individual

Continued on Attachment 3a (form MC-025).
 b. for defendant (name each):

4. Plaintiff Defendant is entitled to possession of the premises located at (street address, apartment, city, and county):
 118 Tamalpais Road, Fairfax, CA 94930

5. Judgment applies to all occupants of the premises including tenants, subtenants, if any, and named claimants if any (Code Civ Proc., §§ 715.010, 1169, and 1174.3).

6. Amount and terms of judgment.

a. Defendant named in Item 3a above must pay plaintiff on the complaint:

(1)	<input type="checkbox"/> Past-due rent	\$
(2)	<input type="checkbox"/> Holdover damages	\$
(3)	<input type="checkbox"/> Attorney fees	\$
(4)	<input type="checkbox"/> Costs	\$
(5)	<input type="checkbox"/> Other (specify):	\$
(6)	TOTAL JUDGMENT	\$

b. Plaintiff is to receive nothing from defendant named in Item 3b.

Defendant named in Item 3b is to recover costs: \$
 and attorney fees: \$

c. The rental agreement is canceled. The lease is forfeited.

7. Conditional judgment. Plaintiff has breached the agreement to provide habitable premises to defendant as stated in Judgment—Unlawful Detainer Attachment (form UD-110S), which is attached.

8. Other (specify):

Continued on Attachment 8 (form MC-025).

Date:

Date: **OCT 31 2011**

Clerk, by **KIM TURNER** JUDICIAL OFFICER **T. FRAGUERO**, Deputy

CLERK'S CERTIFICATE (Optional)

I certify that this is a true copy of the original judgment on file in the court.

Date:

Clerk, by _____, Deputy

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State last number and address):
NANCY E. POWELL #275754
MALCOLM & CISNEROS, a Law Corporation
2112 BUSINESS CENTER DRIVE
SECOND FLOOR
IRVINE, CA 92612
 TELEPHONE NO.: (949) 252-9400 FAX NO. (Optional): (949) 252-1032
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name): **FEDERAL NATIONAL MORTGAGE ASSOCIATION**
 ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN
 STREET ADDRESS: 3501 Civic Center Drive
 MAILING ADDRESS: 3501 Civic Center Drive
 CITY AND ZIP CODE: San Rafael, CA 94903
 BRANCH NAME: Marin

PLAINTIFF: **FEDERAL NATIONAL MORTGAGE ASSOCIATION**
 DEFENDANT: **WALTER B. BESS JR, an individual**

WRIT EXECUTION (Money Judgment)
 OF POSSESSION OF Personal Property
 SALE Real Property

CASE NUMBER:
CIV1104413 LIMITED

- To the Sheriff or Marshal of the County of: **MARIN**
 You are directed to enforce the judgment described below with daily interest and your costs as provided by law.
- To any registered process server: You are authorized to serve this writ only in accord with CCP 699.080 or CCP 715.040.
- (Name): **FEDERAL NATIONAL MORTGAGE ASSOCIATION**
 is the judgment creditor assignee of record whose address is shown on this form above the court's name.

4. Judgment debtor (name and last known address):
WALTER B. BESS JR, an individual
118 Tamalpais Road, Fairfax,
CA 94930

ALL OTHER OCCUPANTS
118 Tamalpais Road, Fairfax,
CA 94930

Additional judgment debtors on next page

- See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.
- This writ is issued on a sister-state judgment.
- Total judgment \$
- Costs after judgment (per filed order or memo CCP 685.090) \$
- Subtotal (add 11 and 12) \$
- Credite \$
- Subtotal (subtract 14 from 13) \$
- Interest after judgment (per filed affidavit CCP 685.050) (not on GC 6103.5 fees) ... \$
- Fee for issuance of writ \$ **25**
- Total (add 15, 16, and 17) \$ **25**
- Levying officer:
 (a) Add daily interest from date of writ (at the legal rate on 15) (not on GC 6103.5 fees) of \$
 (b) Pay directly to court costs included in 11 and 17 (GC 6103.5, 68511.3; CCP 699.520(f)) \$
- The amounts called for in items 11-19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

- Judgment entered on (date): **OCT 3 1 2011**
- Judgment renewed on (dates):
- Notice of sale under this writ
 a. has not been requested.
 b. has been requested (see next page).
- Joint debtor information on next page.



issued on (date): **OCT 3 1 2011** Clerk, by **EMILY TURNER** Deputy

NOTICE TO PERSON SERVED: SEE NEXT PAGE FOR IMPORTANT INFORMATION.

PLAINTIFF: FEDERAL NATIONAL MORTGAGE ASSOCIATION

EJ-130

DEFENDANT: WALTER B. BESS JR, an individual

CASE NUMBER:
CIV1104413 LIMITED

— Items continued from page 1 —

21. Additional judgment debtor (name and last known address):

[] [] [] [] [] [] [] [] [] []

22. Notice of sale has been requested by (name and address):

[] [] [] [] [] [] [] [] [] []

23. Joint debtor was declared bound by the judgment (CCP 989-994)

a. on (date):

a. on (date):

b. name and address of joint debtor:

b. name and address of joint debtor:

[] [] [] [] [] [] [] [] [] []

c. additional costs against certain joint debtors (itemize):

[] [] [] [] [] [] [] [] [] []

24. (Writ of Possession or Writ of Sale) Judgment was entered for the following:

a. Possession of real property: The complaint was filed on (date): SEPTEMBER 6, 2011 (Check (1) or (2)):

(1) The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46.

The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.

(2) The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.

(a) \$ _____ was the daily rental value on the date the complaint was filed.

(b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates (specify):

b. Possession of personal property.

If delivery cannot be had, then for the value (itemize in 9e) specified in the judgment or supplemental order.

c. Sale of personal property.

d. Sale of real property.

e. Description of property: 118 Tamalpais Road, Fairfax, CA 94930

NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying Notice of Levy (Form EJ-150).

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will make a demand upon you for the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

▶ A Claim of Right to Possession form accompanies this writ (unless the Summons was served in compliance with CCP 415.46).

CASE NO. CIV1104413 (limited)

TO: THE SHERIFF OF MARIN COUNTY
CIVIL DIVISION

FEDERAL NATIONAL MORTGAGE ASSOCIATION vs WALTER B. BESS, JR., an individual

TYPE OF PROCESS: Eviction

INSTRUCTIONS:

BY VIRTUE OF THE ACCOMPANYING WRIT PLEASE REMOVE WALTER B. BESS, JR., AND ANY PERSON IN CONTROL OR POSSESSION OF THE PREMISES AND PLACE CREDITOR IN PEACEFUL POSSESSION OF THE PROPERTY LOCATED AT 118 Tamalpais Road, Fairfax, CA 94930.

NAME OF ATTORNEY
OR LITIGANT: Nancy E. Powell
ADDRESS: MALCOLM CISNEROS
2112 Business Center Drive, 2nd Floor
Irvine, CA 92612
CONTACT PERSON: Takahiro Suzuki
PHONE: (949) 252-9400

I AUTHORIZE THE SHERIFF TO SERVE THIS PROCESS IN THE MANNER PRESCRIBED BY LAW, INCLUDING SUBSTITUTE SERVICE, IF APPLICABLE.

MALCOLM CISNEROS

BY: Nancy Powell
NANCY E. POWELL #275754

DATE: November 2, 2011

Linda Neal

From: Paul Morrison <pmorrison@marinwater.org>
Sent: Thursday, December 08, 2016 10:42 AM
To: 'Jozef (Joe) Elemen'
Cc: Joseph Eischens; Ana Arena; Christopher Borjian; Dewey Sorensen; Linda Neal
Subject: RE: 118 Tamalpais Rd, Fairfax - Stairway Improvement Plan

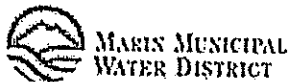
Hi Joe, per our conversation and per my investigation into these properties we will need the following in order to allow for water service for both 120 and 118 Tamalpais:

- The water service SV-04682 has been serving both properties for over 90 years.
- Currently, these 2 properties are under separate ownership.
- In order to serve these 2 properties separately, you will need a new water service for 118 Tamalpais.
- MMWD will need a check for \$6,560 for a 1-inch water service to be installed and MMWD will not charge connection fees for this since both structures have been served since the 1920's.
- Also, since the extenuating circumstances that no inspection of the premissis will be allowed due to a non-cooperative tenant, we will require a RP Backflow device to be installed at the meter.

Please let me, or Joseph know if you have any further questions.

Regards,

Paul Morrison
Engineering Support Services Manager



Serving Marin since 1912

220 Nellen Avenue
Corte Madera, CA 94925
415-945-1535 Fax 415-945-1599
pmorrison@marinwater.org

From: Jozef (Joe) Elemen [mailto:elemen@alspls.com]
Sent: Wednesday, December 07, 2016 4:00 PM
To: Paul Morrison
Subject: 118 Tamalpais Rd, Fairfax - Stairway Improvement Plan

Hi Paul,

I appreciate your time and assistance on this project and have attached a copy of the plan for your reference.

Let me know how we can be of any assistance.

Thanks,

Joe

ATTACHMENT 

Jozef (Joe) Elemen
Chief Technical Officer
American Land Surveying Inc.
316 Tennessee Avenue
Mill Valley, CA 94941
Ph: (415) 888-8580
E: elemen@alspls.com

Note: This message is intended only for the use of the individual or entity to which it is addressed. It may contain information that is confidential and prohibited from disclosure. If you are not the intended recipient, any dissemination or copying of this message or any attachment is strictly prohibited. If you have received this message in error, please notify the original sender immediately by telephone or return e-mail and delete this message, along with any attachments, from your computer.