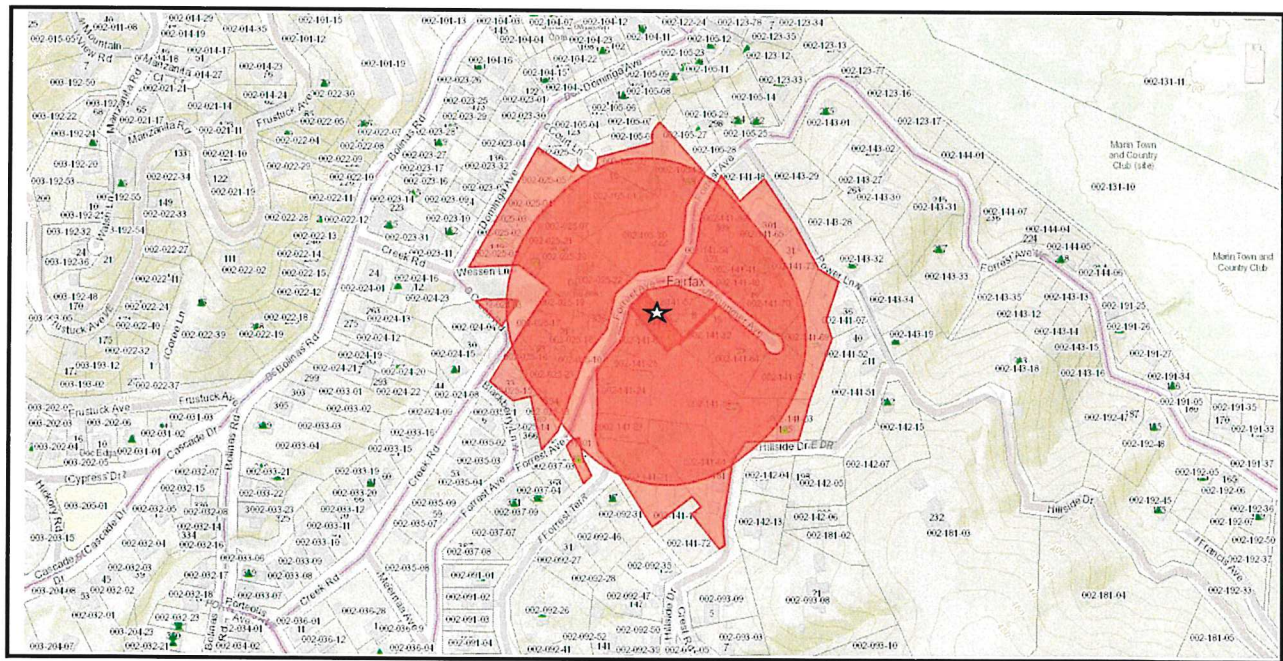


TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Planning Commission
DATE: July 15, 2021
FROM: Linda Neal, Principal Planner
LOCATION: 335 Forrest Ave.; APN # 002-141-28
ZONING: Residential Single-family RS 6 Zone
PROJECT: Construction of a retaining wall and reconfiguration of front entry stairs
ACTION: Retaining Wall Height Variance and Encroachment Permit; Application # 21-13
APPLICANT: Trevor Vantrease, Westward Builders
OWNER: Gaelle Morand
CEQA STATUS: Categorically exempt, § 15303(e)



335 FORREST AVENUE

DESCRIPTION

The project encompasses the construction of a retaining wall along the property frontage that will be approximately 13 feet in height. Most of the wall/safety railing structure will be constructed entirely within the Forrest Avenue right-of-way although a small portion of the I-beams (#'s 7 through 10), will extend onto the project site within the front-yard setback (see sheet SH-3.0 for the I-beam numbers and elevations). The three-foot, 6-inch safety railing will be placed on the property, on the uphill slope approximately two feet south of the wall.

The project will include reconstruction and relocation of the access stairway leading from the parking area up to the property line where the existing concrete stairway continues up to the front door. The replacement of the stairway is necessary to bring the access into compliance with the building code rise/run/landing requirements (see plan sheets SH-2.1, SH-2.3 and SH-4.1).

BACKGROUND

The 6,500 square-foot site slopes up from Forrest Avenue at an average rate of 43 percent. The site is developed with a 1,358 square-foot, 3-bedroom, 2-bathroom, single-family residence that was built in 1919. The property has no on-site parking and a flat area long used as one parking space in the right-of-way along the property frontage, adjacent to an unretained cut slope between the parking and the existing house.

In 2004 the previous property owner applied to further excavate into the hillside along the property frontage to create a carport and then a garage. Both proposals did not reach completion because the Town Engineer's concerns about sightlines along Forrest Avenue were never addressed by the applicant. The application file remained incomplete and was finally closed on July 28, 2010.

After failing to complete the above-described application the then owner surreptitiously began excavating the area little by little while trying to retain the hillside using plant material, shotcrete, and sandbags. The hillside collapsed at one point filling his truck with loose soil and rock (C – photos).

The Commission can see the extent of the unpermitted excavation by the previous owner by comparing the survey submitted with the carport/garage application described above (Attachment B) with the existing topography depicted on sheet SH-2.0 of the current project plans.

DISCUSSION

The proposed retaining wall and new entry stairway to stabilize the cut bank between the parking and the house, and to rebuild the access stairway to comply with the

building code, will require the approval of a retaining wall height variance and an encroachment permit by the Planning Commission.

Encroachment Permit

Town Code § 12.32.010(A) allows the Planning Commission to grant revocable encroachment permits to allow private property owner the use of portions of the public right-of-way for carports and other structures when they are not being used for vehicular or pedestrian travel by the public. The Commission must verify that the area proposed for the project is not currently being used by the public.

The area where the current parking for the site exists and where the new access stairway and wall will be constructed is not currently, nor has it in the past, been used by the public for pedestrian or vehicular purposes. It is also noted that approval of the encroachment permit grants the applicant exclusive (although not permanent) of the parking area for parking.

Construction of the wall will provide much needed stabilization of the cut slope adjacent to the access stairway and existing parking space.

Retaining Wall Height Variance

Town Code 17.044.080(B)(1) and (2) limits walls within the required six-foot front-yard setback to four feet in height, and anywhere behind that setback to six feet in height. The proposed wall will reach a maximum of 13 feet in height and will extend along the entire frontage of the property. The 13-foot height is the minimum necessary to retain the existing unstable hillside cut, and to protect the existing area used for parking, the front entry access stairs, and (potentially) Forrest Avenue from future slides due to soil instability. If the wall were stepped, the visual effect would probably be as or more visually prominent due to the additional overall wall height required by the steep slope.

The Town Engineer has reviewed the preliminary engineering plans and calculations and has determined that the wall can be constructed without effecting the stability of neighboring properties or infrastructure and without permanently obstructing the public's use of the existing improved roadway (Attachment D – Town Engineer's 6/14/21 letter).

Excavation, Fill and Off-haul

Construction of the wall will require the excavation of 45 cubic yards of material which will be used to back fill the wall. There will no off-haul of material from the site.

Town Code § 12.20.080 indicates that excavating/filling/over 100 cubic yards of material requires the approval of an excavation permit by the Planning Commission. Since this project only involves moving 45 cubic yards of material, it does not require an excavation permit from the Planning Commission.

Design

The wall will be constructed of I beams (soldier piles) spaced 1 ½ to 5 feet apart with timber lagging in between. The wall will be approximately 13 feet in height. This type of design is used in other frontage locations in town, and is reasonably attractive.

The safety guardrail will be installed two feet south (uphill) of the wall along its entire length and therefore is not counted as part of the wall height, which it would be if built directly on top of the wall. The guardrail will be 3½ feet in height, with a wood frame and 4" x 4" welded wire mesh fencing, and thus will be visually unobstrusive.

The Building Official has reviewed and approved the safety railing design and location as meeting the building code requirement.

Other Agency/Department Comment/Conditions

The Planning Department received no comments or conditions from any of the affected agencies or departments including the Ross Valley Fire Department, Ross Valley Sanitary District, Marin Municipal Water District, Pacific Gas and Electric or the Fairfax Police, Public Works, or Building Departments.

RECOMMENDATION

Conduct the public hearing.

Move to approve Resolution No. 2021-15 setting forth the findings and the conditions for the project approval.

ATTACHMENTS

A – Resolution No. 2021-15

B – Topographic survey showing site prior to the previous owner's excavation

C - Photographs of project site prior to its purchase by the applicant after the previous owner began the unpermitted excavation

D – Town Engineer's final memorandum on the project dated 6/14/21

E - Property record of survey

RESOLUTION NO. 2021-15

A Resolution of the Fairfax Planning Commission Approving a Retaining Wall, Improved Parking and Entry Stairway Encroachment Permit for the Property at 335 Forrest Avenue

WHEREAS, the Town of Fairfax has received an application to construct a retaining wall and to reconstruct/reconfigure the front access stairway to a house at 335 Forrest Avenue; and

WHEREAS, based on the plans and other documentary evidence in the record, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the project with certain conditions of approval as listed below; and

WHEREAS, the Commission has made the following findings:

1. The parking space/roadway cut slopes up at close to a 90° angle from Forrest Avenue along the entire property frontage, and the steep slope of this cut is the special circumstance applicable to the property where the strict application of the four-foot wall height limit, if enforced, would deprive the applicants of the ability to retain the hillside to protect the parking, the house above, and the only access stairway to the house. Retaining walls and stairways are a privilege enjoyed by other property owners of upsloping hillside lots in the Residential Single-family RS-6 Zone District.
2. Many upsloping residences along Forrest Avenue in the hillside areas have access stairs and parking either entirely or partially within the right-of-way along with the structures, either garages or retaining walls, necessary to create and protect the parking. This situation is common in Fairfax where the paved roadways do not extend the entire width of the road right-of-way and front property lines for many sites are located some distance up the hillside from the edge of the paved road. The strict application of the maximum four-foot retaining wall height limit would preclude the owners from retaining the unstable hillside above the parking, below the house and on either side of the front access stairway which is the only way for emergency personnel to access the house. This could result in excessive or unreasonable hardship for the owner should the unretained cut become unstable as it has in the past.
3. The granting of the variance will be beneficial to the public welfare by providing a safe means of direct access to the house at 335 Forrest Avenue for emergency response personnel and anyone else having to access the structure including residents/tenants and by eliminating potential cut instability that would result in the existing parking being damaged/eliminated.
4. The variance will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification and is consistent with the objectives of this title.
5. The plans show that the stairway and wall improvements will be located within a portion of the Forrest Avenue right-of-way not being used by the public in accordance with Town Code § 12.32.020.
6. Upon compliance with the conditions listed below the improvements can be constructed without having negative impacts on the neighboring properties, public, or on vehicles or pedestrians using Forrest Avenue.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

ATTACHMENT A

Conditions of Approval

1. The Town Engineer shall review and approve the entire body of information for the project including engineering reports and the construction drawings prior to issuance of the project building permit.
2. The surveyor shall mark the side property line in the presence of the Building Official prior to the start of construction.
3. The owner shall complete the Revocable Encroachment Permit and submit it to the Town for review and approval. Once approved, the owners shall sign and notarize the document and have it recorded at the Marin County Recorder's Office, and provide a recorded copy to the Town prior to issuance of the project building permit.
5. The applicant shall comply with any conditions of the Fairfax Building Official, Public Works Director/Manager, Town Engineer, Ross Valley Fire Department, Marin Municipal Water District and Ross Valley Sanitary District.
6. This approval is limited to the development shown on the plans provided to the Planning Commission prior to the public hearing on July 15, 2021 and dated received by the Town on 7/1/21.
7. Prior to issuance of a building permit, the applicant or his assigns shall submit a bond, cash deposit or letter of credit to the Town in an amount that will cover the cost of grading, weatherization, and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Public Works Director. Upon approval of the contract costs, the applicant shall submit a cash deposit, letter of credit or bond equaling 100% of the estimated construction costs.
8. Prior to issuance of the building permit, the applicant shall provide the Town with a video of the access streets to be used during construction. The Public Works Director shall decide prior to the project final, regarding street resurfacing and repair that may be required as a result of damage and wear and tear from project vehicles.
9. Prior to issuance of the building permit, the applicant shall submit a Construction Management Plan subject to review and approval by the Building Official/Public Works Manager. The plan shall include:
 - Construction delivery routes approved by the Department of Public Works
 - Construction schedule (deliveries, worker hours, etc.)
 - Notification to area residents
 - Emergency access routes; and
 - Parking plan to minimize the impacts of contractor/employee vehicles and construction equipment on neighborhood parking
10. During the construction process the following shall be required:
 - a. The project engineer shall be on-site during the grading process and shall submit written certification to the Town staff that the grading has been completed as designed and recommended prior to installation of retaining forms.

b. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be always situated off the travel lane of the adjacent public right(s)-of-way. This condition may be waived by the building official on a case-by-case basis with prior notification from the contractor.

c. Additionally, any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.

11. Prior to the project final inspection the following shall be completed:

a. The project engineer shall field check the completed project and submit written certification to Town Staff stating that the retaining, grading and drainage elements have been installed in conformance with the approved building plans.

b. The Building Official shall field check the completed project to verify that the work has been installed as per the approved plan.

c. The Planning Department shall field check the completed project to verify that all conditions of the Planning Commission have been complied on prior to the final inspection.

12. Excavation shall not occur between October 1st and April 1st of any year. The Town Engineer has the authority to waive this condition depending upon the weather.

13. The applicant shall comply with the Town Noise Ordinance Chapter 8.16 of the Fairfax Town Code.

14. Any changes, modifications, additions, or alterations made to the approved set of plans will require approval by the Town Engineer and the Director of Planning and Building Services. Any construction based on project plans that have been altered without the benefit of an approved modification will result in the job being immediately stopped and red tagged.

15. Any modification of these Conditions of Approval must be approved by the Fairfax Planning Commission.

16. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Retaining Wall Height Variance and Encroachment Permit for construction of the entry stairway and associated retaining wall at 335 Forrest Avenue will not causing significant impacts on neighboring residences and the environment and is in compliance with the 2010 to 2013 Fairfax General Plan and Fairfax Zoning Ordinance.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on July 15, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Mimi Newton

Attest:

Ben Berto, Director of Planning and Building Services

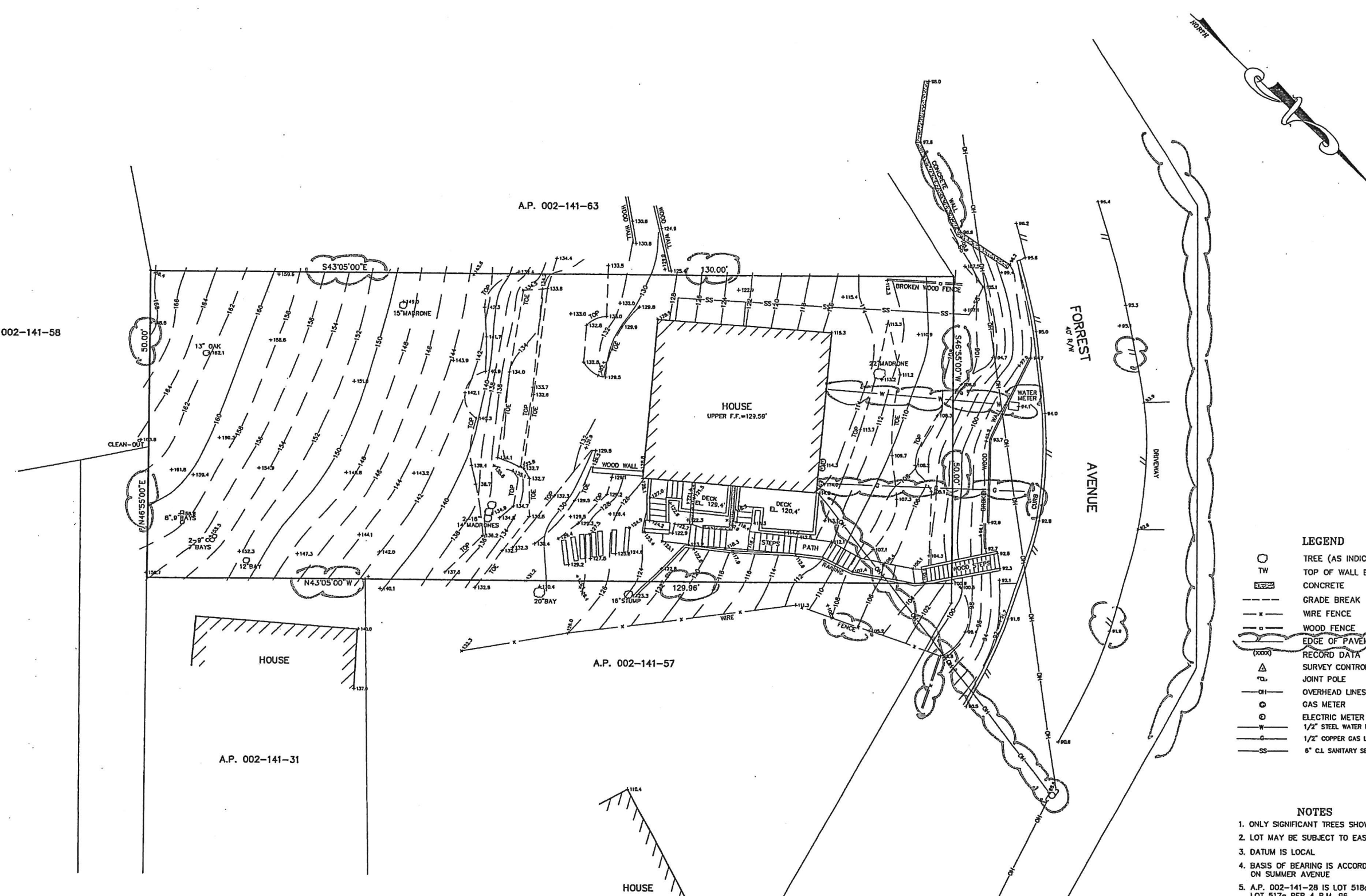
1	9/10/04	UTILITY LINES ADDED	
2	5/18/05	SANITARY SEWER LINES ADJUSTED AND WALL REMOVED	
NO.	DATE	DESCRIPTION	BY

A.P. 002-141-58

A.P. 002-141-63

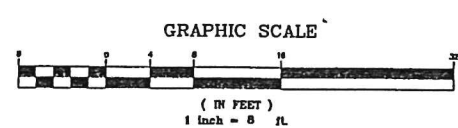
A.P. 002-141-57

A.P. 002-141-31



- LEGEND**
- TREE (AS INDICATED)
 - TW TOP OF WALL ELEVATION
 - CONCRETE
 - GRADE BREAK
 - x- WIRE FENCE
 - o- WOOD FENCE
 - EDGE OF PAVEMENT
 - (xxxx) RECORD DATA
 - △ SURVEY CONTROL POINT
 - JOINT POLE
 - OH OVERHEAD LINES
 - ⊙ GAS METER
 - ⊙ ELECTRIC METER
 - W 1/2" STEEL WATER LINE
 - o 1/2" COPPER GAS LINE
 - SS 6" CL. SANITARY SEWER LINE

- NOTES**
1. ONLY SIGNIFICANT TREES SHOWN
 2. LOT MAY BE SUBJECT TO EASEMENTS NOT SHOWN
 3. DATUM IS LOCAL
 4. BASIS OF BEARING IS ACCORDING TO FOUND POINTS ON SUMMER AVENUE
 5. A.P. 002-141-28 IS LOT 518a AND A PORTION OF LOT 517a PER 4 R.M. 95.



© 2005
 THIS DRAWING IS THE PROPERTY OF LAWRENCE P. DOYLE LAND SURVEYOR CIVIL ENGINEER AND MAY NOT BE DUPLICATED OR USED WITHOUT PERMISSION

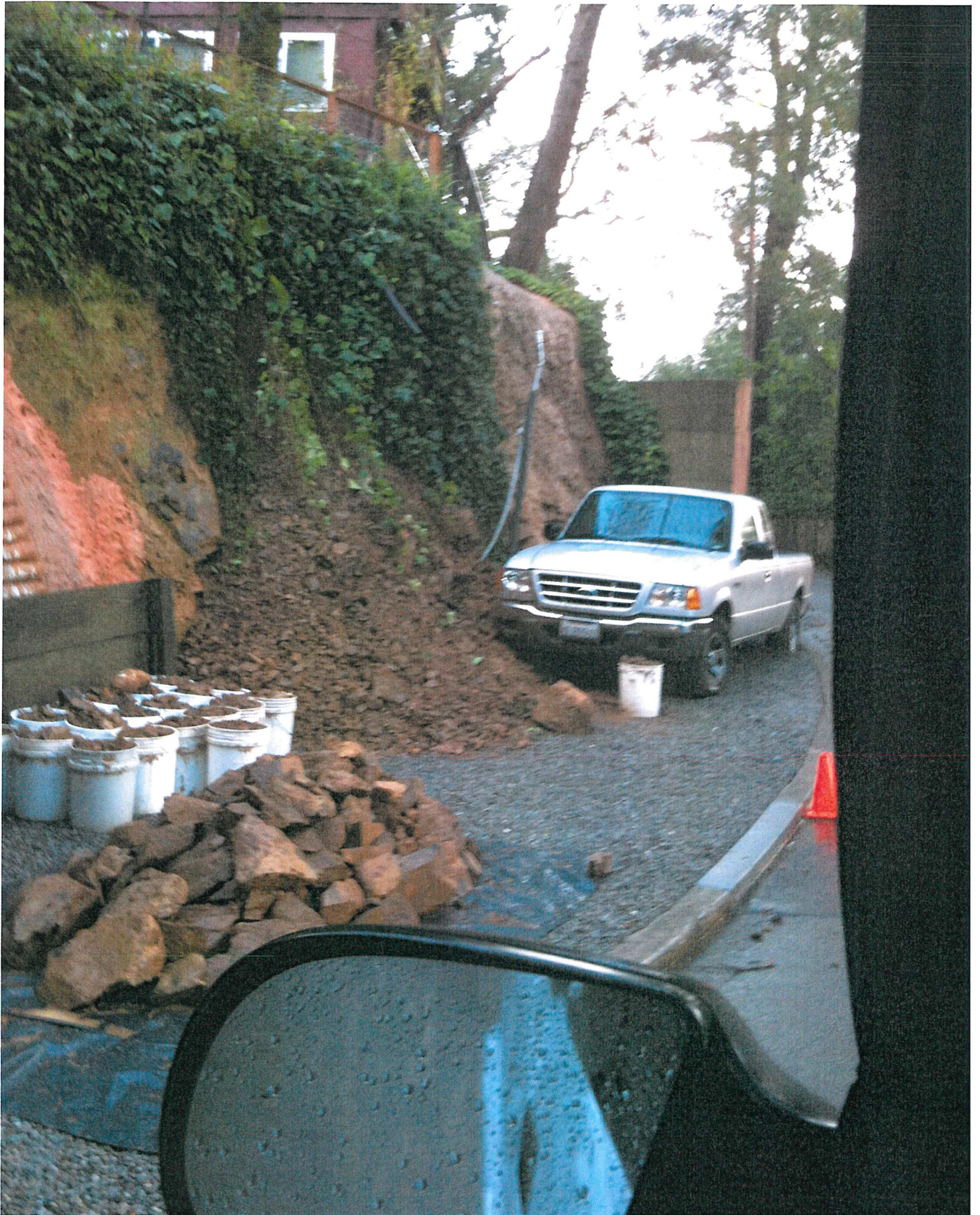
TOPOGRAPHIC SURVEY
 335 FORREST AVE. / A.P. 002-141-28
 FAIRFAX MARIN COUNTY CALIFORNIA

SCALE: 1" = 8'
 DATE: 5/18/05
 LAWRENCE P. DOYLE
 LAND SURVEYOR/CIVIL ENGINEER
 P.O. BOX 1609 MILL VALLEY, CA 94942 (415) 388-9585

DRAWN BY: CPD
 SHEET 1 OF 1

ATTACHMENT

B



Google Maps 335 Forrest Ave



Image capture: May 2011 © 2021 Google



June 14, 2021
File: 201.197bltr.doc

Town of Fairfax
Planning and Building Services Department
142 Bolinas Avenue
Fairfax, California 94930

Attn: Ms. Linda Neal, Principal Planner

Re: Second Planning-Level Geologic, Geotechnical, and Civil Engineering Review
New Soldier-Pile Retaining Wall
335 Forrest Avenue
Fairfax, California

Introduction

In response to your request and in accordance with our agreement dated March 20, 2018, we have performed a Second Review of project plans and supporting documentation for the proposed construction of a new soldier-pile retaining wall along the downslope edge of the property at 335 Forrest Avenue (APN 002-141-28) in Fairfax, California. The purpose of our services is to review the submitted documents, comment on the completeness and adequacy of the submittal in consideration of Town requirements, and to provide a recommendation to Town Planning and Building staff regarding project approval. We previously summarized our First Review in a letter dated March 25, 2021.

The scope of our services includes:

- A site reconnaissance to observe existing conditions and review proposed development features;
- Development of opinions regarding project compliance with applicable Town Code requirements; and
- Development of recommendations to Town staff as to whether the project may be safely constructed in consideration of any geologic, hydrologic, or geotechnical hazards.

We understand that, although the project is not subject to review for conformance to the Hillside Residential Development ordinance, the work will require a retaining wall height variance, a conditional use permit, an excavation permit, and an encroachment permit.

It should be noted that the scope of our review is limited solely to geologic, geotechnical, and civil portions of the project, and does not include review of structural, architectural, mechanical, or other items beyond the scope of our qualifications. We recommend that non-geotechnical aspects of the plans be reviewed by suitably qualified professionals.

Project Description

The project generally includes constructing a new, 70-foot long, 12-foot-high soldier-pile and timber lagging retaining wall to support an existing near-vertical cut slope above the roadway and below the residence. New access stairs to the residence will also be constructed to replace old timber elements.

Project Review

We performed a brief site reconnaissance on March 23, 2021 to observe existing conditions at the site. Additionally, we previously reviewed the following documents provided by the Town as part of our First Review:

- Geoengineering, Inc. (2005), "Geotechnical Review, Foundation Plans, Site Retaining Walls and Outside Stairs, Upslope Dwelling, 335 Forrest Avenue, Fairfax, California", dated March 28, 2005.
- Structura, Inc. (2021), "Calculation Report, Cantilever Retaining Wall and Stairs, 335 Forrest Ave, Fairfax, CA", dated December 3, 2020.
- Structura, Inc. (2021), "Retaining Wall and Stairs, 335 Forrest Avenue, Fairfax, CA", Job No. 20140/P2014, Sheets SH-1.0 through SH-4.2, First Revision set dated February 8, 2021.

More recently, we reviewed the following documents for this Second Review:

- Fidelity National Title Company (2021), "Preliminary Report" (Fee Title Report), Escrow No. FMNA-9032100598, Effective Date March 31, 2021.
- Geoengineering, Inc. (2021), "Geotechnical Review, Drilled Retaining Wall Design, Road Cut Below 335 Forrest Avenue, Fairfax, California", dated April 15, 2021
- Structura, Inc. (2021), "Retaining Wall and Stairs, 335 Forrest Avenue, Fairfax, CA", Job No. 20140/P2014, Sheets SH-1.0 through SH-4.2, Second Revision set dated May 16-17, 2021.

Conclusions

Based on our site reconnaissance and document review, the following submittal items required by the Town of Fairfax Hill Area Residential Development Ordinance remain outstanding. Note that any First Review comments not reproduced below are considered to have been satisfactorily addressed.

- 1) All improvements in the public right-of-way be subject to Town of Fairfax minimum design standards. An encroachment permit should be required for all work in the right-of-way.
- 2) Although we judge that a standalone grading and erosion-control plan is not required for a project of this scope, the designer should clarify the extent of grading expected at the east end of the wall, where new excavations will be performed at the toe of a steep

June 14, 2021

slope, within the Town's right-of-way. Alternatively, a small wing or "return" wall could be considered.

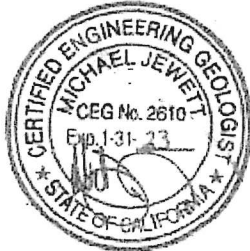
- 3) Given the planned offhaul volume and generally limited/impacted access, staging/materials storage and parking conditions along Forrest Avenue, a Construction Management Plan should be provided for review. The Contractor should indicate the proposed means of constructing 30-inch piers at the specified depths and be responsible for any damage to Town facilities incurred during the work, including the recently-constructed asphalt pavement and retaining wall across the street, near 336 Forrest Avenue.

Recommendations

Although the geotechnical response to comments does not address the requested information, we note that the interpreted seismic design parameters utilized by the Structural Engineer appear reasonable. As such, we recommend that project processing be continued at the Planning level. We judge that review of responses to remaining comments can be handled at the Building level with minimal anticipated impact.

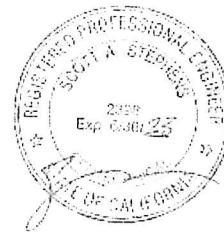
We trust that this letter contains the information you require at this time. If you have any questions, please call. We will directly discuss our comments with the applicant's consultants if they wish to do so.

Yours very truly,
MILLER PACIFIC ENGINEERING GROUP

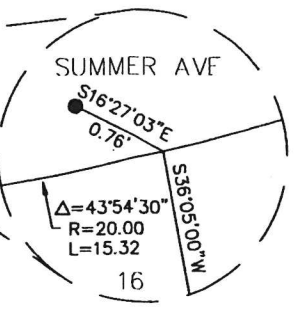
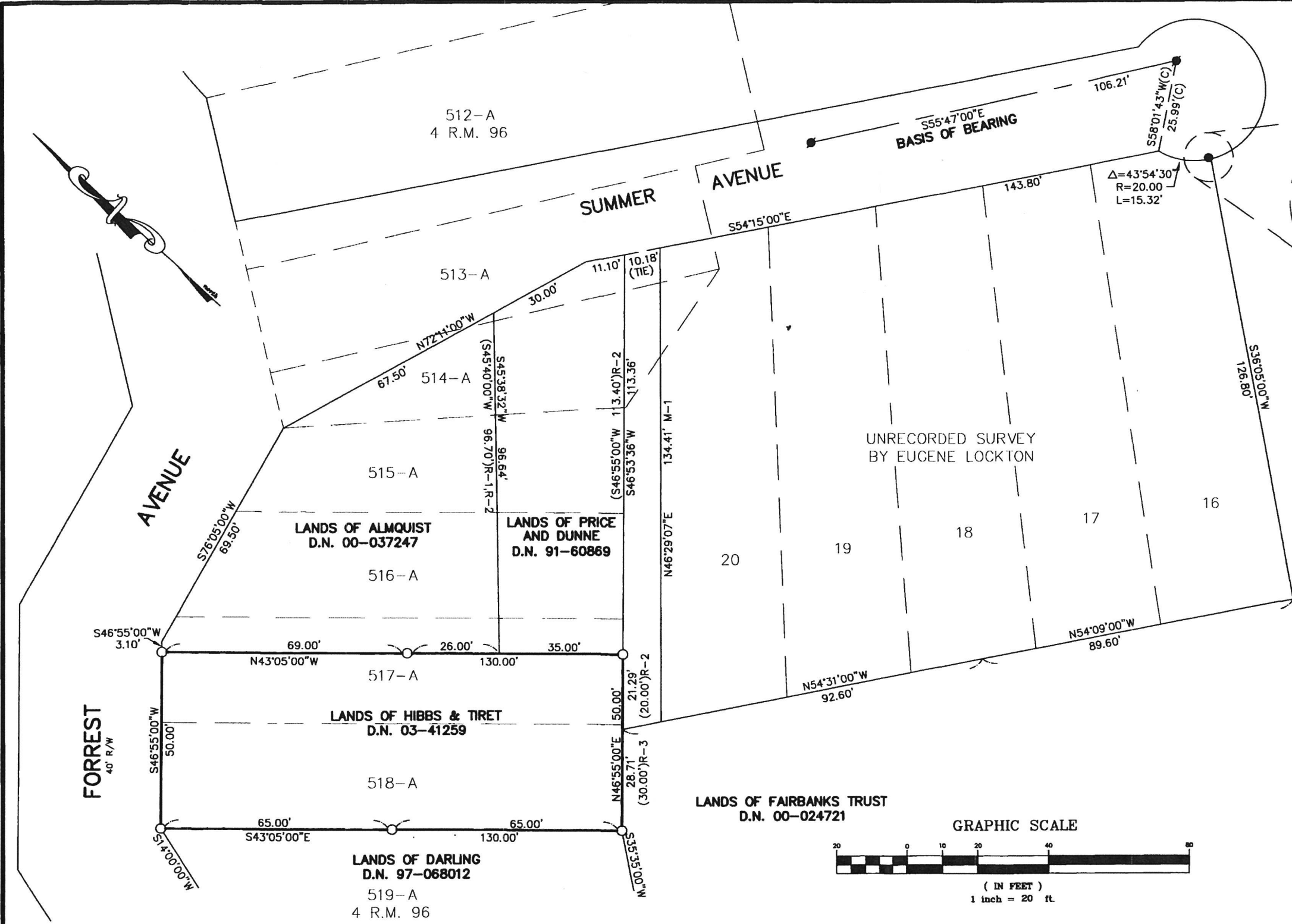


Mike Jewett
Town of Fairfax Contract Geologist
Engineering Geologist No. 2610
(Expires 1/31/23)

REVIEWED BY:



Scott Stephens
Town of Fairfax Contract Engineer
Geotechnical Engineer No. 2398
(Expires 6/30/23)



LEGEND

- FOUND 3/4" PIPE PER M-1
- FOUND TRAVERSE NAIL PER M-1
- SET 3/4" PIPE AND PLUG L.S. 4694
- (C) CALCULATED

DEED REFERENCE

- R-1 D.N. 00-037247
- R-2 D.N. 91-60869
- R-3 D.N. 00-024721

MAP REFERENCE

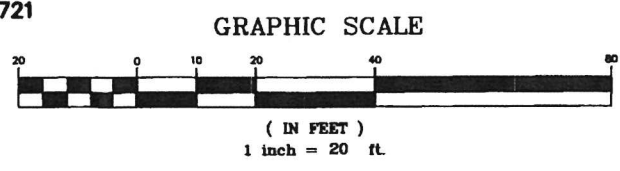
- M-1 UNRECORDED MAP BY EUGENE LOCKTON

BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS S55°47'00"E BETWEEN FOUND TRAVERSE POINTS CALCULATED PER UNRECORDED MAP BY EUGENE LOCKTON

NOTES

- ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.



SURVEYOR'S STATEMENT

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYOR'S ACT AT THE REQUEST OF MR. WILLIAM HIBBS IN MAY 2005.

Lawrence P. Doyle
LAWRENCE P. DOYLE P.L.S. 4694
EXP. 9/30/05



COUNTY SURVEYOR'S STATEMENT

THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION 8766 OF THE PROFESSIONAL LAND SURVEYORS ACT THIS 2ND DAY OF AUGUST, 2005.

Craig Tackberry
CRAIG TACKBERRY, COUNTY SURVEYOR



RECORDER'S STATEMENT

FILED THIS 8th DAY OF August, 2005 AT 9:46 AM IN BOOK 2005 OF MAPS AT PAGE 204 AT THE REQUEST OF THE COUNTY OF MARIN DEPT. OF PUBLIC WORKS SERIAL NO. 2005-0059504. FEE \$7.00

James C. Wray
COUNTY RECORDER
BY DEPUTY *James C. Wray*

RECORD OF SURVEY

LANDS OF HIBBS AND TIRET
D.N. 03-041259
BEING LOT 518-A
AND A PORTION OF LOT 517-A
"MAP NO. 3, DEER PARK"
4 R.M. 96

FAIRFAX MARIN COUNTY CALIFORNIA

LAWRENCE P. DOYLE
LAND SURVEYOR/CIVIL ENGINEER
P.O. BOX 1609 MILL VALLEY, CA 94942 (415) 388-9585

DATE: 5/18/05 SHEET 1 OF 1 JOB No. 1139-03
SCALE: 1"=20' A.P. 002-141-28