BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
DAN COHEN, Appellant(s)
vs.
DEPARTMENT OF BUILDING INSPECTION,
PLANNING DEPARTMENT APPROVAL Respondent

Appeal No. **22-008**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on February 18, 2022, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on February 7, 2022 to Salo Rawet and David Gellman, of an Alteration Permit (concrete retaining wall to property line to maintain existing grade five feet by five inches; revision to Permit Application No. 2021/0570/0002) at 405 Duncan Street.

APPLICATION NO. 2022/02/07/7420

FOR HEARING ON March 30, 2022

Address of Appellant(s):	Address of Other Parties:
Dan Cohen, Appellant(s) c/o Laura Strazzo, Attorney for Appellant(s) Zacks Freedman & Patterson, P.C. 601 Montgomery Street, Suite 400 San Francisco, California 94111	Salo Rawet & David Gellman, Permit Holder(s) c/o Brett Gladstone, Attorney for Permit Holder(s) Goldstein, Gellman, Melbostad, Harris & McSparran, LLP 1388 Sutter Street, Suite 1000 San Francisco, CA 94109-5494

Date Filed: February 18, 2022

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT FOR APPEAL NO. 22-008

I / We, **Dan Cohen**, hereby appeal the following departmental action: **ISSUANCE** of **Alteration Permit No. 2022/02/07/7420** by the **Department of Building Inspection** which was issued or became effective on: **February 7, 2022**, to: **Salo Rawet,** for the property located at: **405 Duncan Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **March 10, 2022**, **(no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org tina.tam@sfgov.org and salorawet@aol.com

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **March 24, 2022**, **(no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org tina.tam@sfgov.org and laura@zfplaw.com

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, March 30, 2022, 5:00 p.m.,** via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

Not Submitted.

Appellant or Agent:

Signature: Via Email

Print Name: Laura Strazzo, attorney for appellant

Permit Details Report

Report Date:	**2/18/2022 10:37:10 AM**
Application Number:	202202077420
Form Number:	8
Address(es):	6602 / 002 / 1 405 DUNCAN ST
Description:	CONCRETE RETAINING WALL TO PROPERTY LINE. TO MAINTAIN (E) GRADE 5'x5". REVISION TO PA# 20210570002
Cost:	$20,000.00
Occupancy Code:	R-2
Building Use:	24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
2/7/2022	TRIAGE	
2/7/2022	FILING	
2/7/2022	FILED	
2/7/2022	APPROVED	
2/7/2022	ISSUED	

Contact Details:

Contractor Details:

License Number: OWN
Name: OWNER OWNER
Company Name: OWNER
Address: OWNER * OWNER CA 00000-0000
Phone:

Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	BID-INSP	2/7/22	2/7/22			2/7/22	GREENE MATT	
2	INTAKE	2/7/22	2/7/22			2/7/22	YU ZHANG REN	
3	CP-ZOC	2/7/22	2/7/22			2/7/22	OROPEZA EDGAR	N/A no changes from prior planning review o approval of BPA no 202105070002
4	BLDG	2/7/22	2/7/22			2/7/22	CHEUNG JIMMY	APPROVED.
5	HIS	2/7/22	2/7/22			2/7/22	HANKINS ETHAN	
6	CPB	2/7/22	2/7/22			2/7/22	PASION MAY	

This permit has been issued. For information pertaining to this permit, please call 628-652-3450.

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots

Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status

Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
0			4	REINFORCING STEEL AND PRETRESSING TENDONS	reinforcing steel
0			24A	FOUNDATIONS	
0			11	PILING,DRILLED PIERS AND CAISSONS	drileld piers

For information, or to schedule an inspection, call 628-652-3400 between 8:30 am and 3:00 pm.

Station Code Descriptions and Phone Numbers

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

BRIEF SUBMITTED BY THE APPELLANT(S)

RYAN J. PATTERSON (SBN 277971)
LAURA STRAZZO (SBN 312593)
ZACKS, FREEDMAN & PATTERSON, PC
601 Montgomery Street, Suite 400
San Francisco, CA 94111
Tel: (415) 956-8100
Fax: (415) 288-9755
ryan@zfplaw.com
laura@zfplaw.com

Attorneys for Appellant,
Dan Cohen

SAN FRANCISCO BOARD OF APPEALS

DAN COHEN

Appellants,

v.

SAN FRANCISCO DEPARTMENT OF BUILDING INSPECTION

Respondent.

SALO RAWET,

Permit Holder.

APPELLANT'S BRIEF

BPA No.: 202202077420
Subject Address: 405 Duncan Street

Appeal No. 22-008
Date: March 30, 2022
Time: 5:00 p.m.

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

I. INTRODUCTION

Our office represents Appellant Dan Cohen, the owner of 1468 Sanchez Street (the "Sanchez Property"), which is directly adjacent to 405 Duncan Street (the "Subject Property"). This appeal concerns BPA No. 202202077420 (the "Permit"), which DBI issued on February 7, 2022 for the Subject Property. The Permit is a revision to BPA 20210570002 (the "Original Permit") that was issued on May 14, 2021 to build a concrete retaining wall at the rear property line between the Sanchez Property and the Subject Property.

Appellant does not oppose Permit Holder building a retaining wall near the property line. However, Permit Holder previously damaged Appellant's home by installing faulty grades with undrained soil, vegetation, and irrigation placed against the home's wood-framed walls above its foundation. Therefore, the proposed retaining wall is a step in the right direction in preventing a recurrence of these conditions. Due to Permit Holder's prior actions, Appellant simply wants to ensure that the project adequately protects his home from future damages by addressing issues brought up by their engineers including the waterproofing and drainage called for by Permit Holder's own structural engineer and DBI.

In September 2020, Appellant discovered extensive damages to his home caused by Permit Holder's faulty grades. Appellant reached an agreement with Permit Holder to excavate, repair his home, and install a 24-inch-wide French drain along the property line. However, Permit Holder backed out of this and subsequent agreements, each time demanding less and less space for the French Drain. In March 2021, Permit Holder submitted a structural design to Appellant for a retaining wall 2 inches from the Appellant's home without a waterproofing or drainage plan. Appellant tried to accommodate Permit Holder and had his architect, engineer, and waterproofing masonry specialist review the plan. Appellant's design professionals determined the plan did not have adequate waterproofing or drainage. Appellant attempted to engage with Permit Holder to come up with alternatives. However, during those negotiations to come to a mutually agreeable solution, and to Appellant's surprise, Permit Holder obtained the Original Permit on May 14, 2021 for the flawed retaining wall design.

On July 22, 2021, Nilgun Wolpe of NYEngineering, the engineer who prepared the structural design for the retaining wall, conducted a site visit on Subject Property. As a result of that visit, on

July 27, 2021, she emailed local DBI inspector Damien Martin indicating the permit (1) was obtained without her knowledge and with other drawings prepared by the Permit Holder she had never seen, (2) was based on inaccurate statements of the site conditions provided to her by the Permit Holder, rendering the design invalid, and (3) had modifications to her drawings she did not authorize, including the crossing out of the requirement that a drainage and waterproofing design was needed. She further stated that the permit drawings must be revised prior to construction. (Strazzo Decl., **Exhibit A**.)

On July 30, 2021, Mr. Martin emailed Ms. Wolpe, acknowledging and concurring with Ms. Wolpe, and confirming to her that drainage was required for the retaining wall. Ms. Wolpe subsequently informed her client of the need for a soils report and a revision that included drainage, confirming it again in writing to them by email on August 31, 2021. (Strazzo Decl., **Exhibit B**.) Over the next several weeks, Appellant made several inquiries to Ms. Wolpe about the progress on the revision, and on each occasion, she mentioned that Permit Holder had not hired a soils engineer nor engaged her to do a redesign. She also mentioned that Permit Holder said he was going to get the drainage determination overturned by going over Mr. Martin's head. The Appellant discussed this comment with Mr. Martin, who told the Appellant that they could try that, but it was unlikely he'd be overruled.

After a month and a half of no response or action, the Appellant filed Complaint No. 202180941 on October 11, 2021, requesting DBI require that the Permit Holder revise the Original Permit. Inspector Martin was assigned the complaint on October 12, 2021. The Appellant followed up several times with Mr. Martin to ask about the complaint status, noting that according to DBI records, on October 18, 2021, the Permit Holder refused entry to Mr. Martin. On November 3, 2021, Appellant requested that Mr. Martin suspend the permit pending the Permit Holder revising their permit. (Strazzo Decl., **Exhibit C**.) On November 4, 2021, the Permit Holder, his husband and spokesperson/attorney David Gellman, and their permit consultant Leo McFadden met with Mr. Martin on site on November 4, 2021 about the complaint. After that meeting, without explanation, Mr. Martin informed Appellant that the issue was no longer in his hands and that his supervisor Matthew Greene would be taking over. Appellant asked what the basis was for Mr. Greene to get personally involved in this issue and open the door for Mr. Martin's drainage decision to be

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

overturned, but no answer was provided. On November 8, 2021, Appellant emailed Mr. Greene and copied Mr. Martin, forwarding him the determination from Ms. Wolpe and Mr. Martin to make sure he had that information as he took over this case. Appellant did not receive a response. (Strazzo Decl., **Exhibit D**.)

On November 9, 2021, Mr. Martin informed Appellant that Mr. Greene would be onsite for a meeting with the Permit Holder, Mr. Gellman, and Mr. McFadden to discuss the complaint and issue on November 18, 2021. Not getting anywhere on his own in trying to get DBI to pay attention to the Permit revision and drainage requirement, Appellant retained this firm to help. On November 9, 2021, our firm sent a letter to Mr. Greene and Mr. Martin requesting they suspend the permit because they didn't comply with the redesign determination from Ms. Wolpe and Mr. Martin. No response was received. (Strazzo Decl., **Exhibit E**.)

Separately, the Appellant contacted John Murray and Jeff Buckley at DBI on November 10, 2021 alerting them to the situation and asked them to apprise Joe Duffy about this case, asked him to take a look at it, and he suggested the permit should be suspended. Mr. Duffy responded, copying Mr. Greene, noting "drainage is typically required and should be documented on the plans on a detail. That usually is part of the plan review. In past instances I have requested the engineer of record to provide a drainage detail if none was on the plans." (Strazzo Decl., **Exhibit F**.)

Lastly, the Appellant's licensed landscape architect Paul Thunstrom, an expert in drainage, wrote a letter on November 18 to Mr. Greene and Mr. Martin providing his professional opinion that a drain for the retaining wall was required and providing a design for same. (Strazzo Decl., **Exhibit G**.) This is the same landscape architect that the Permit Holder said he liked and respected in earlier negotiations. No response was received.

Unfortunately, while Appellant and his engineer have openly communicated with DBI and Permit Holder in this matter, Permit Holder has never responded to any inquiries, has conducted all activities covertly, has withheld documents and information, and has misled DBI. We therefore respectfully request that the Board suspend the Permit until Permit Holder provides a drainage plan from a licensed engineer that properly conveys the surface water away from the Subject Property and the Sanchez Property into a drain as required by the Plumbing Code.

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

II. ARGUMENT

A. The Permit Should Not Have Been Issued as Permit Holders Misrepresented to DBI that Appellant had Approved the Revised Plans for the Permit

On November 18, 2021, the Permit Holder, his husband and spokesperson/attorney Mr. Gellman, and their permit consultant Leo McFadden met with DBI Senior Inspector Matt Greene, DBI Inspector Damien Martin, and DBI Plan Checker Jimmy Cheung, the Appellant, and the Appellant's civil engineer, Robert Wong. During the meeting, DBI instructed that the parties needed to stay out of the drainage design issue and have their engineers work together to come up with a solution within 45 days. Appellant and Permit Holder agreed to follow this plan and that the next step would be that Permit Holder's engineer would submit a complete set of revised plans to be reviewed and approved by the Appellant's engineer, Mr. Wong. Mr. Wong specifically elaborated that this would need to include a site plan, drainage plan, and grading plan. At the conclusion of the meeting the parties further agreed that a revision permit would be filed once a complete set of revised drawings were reviewed and approved of by Appellant's engineer. At Mr. Greene's request, on December 6, 2021, Mr. Wong sent an email to all attendees confirming this plan, to which Mr. Greene responded with thanks and confirmation. (Strazzo Decl., **Exhibit H**.)

On December 27, 2021, Permit Holder's engineer Ms. Wolpe sent Appellant's engineer Mr. Wong her structural plans. The plans explicitly stated that drainage for the site would be "designed by others." (Strazzo Decl., **Exhibit I**.) Mr. Wong emailed Ms. Wolpe on January 10, 2022, copying all attendees from the November 18, 2021 meeting including the Permit Holder, his husband, and DBI, noting several concerns, unanswered questions, and requested that several missing drawings and documents were needed to complete his review of the designs for the permit revision, and asking when the Permit Holder will provide those. No one responded to that email to provide answers. (Strazzo Decl., **Exhibit J**.)

However, Ms. Wolpe indicated to Mr. Wong that she was not qualified to design waterproofing and drainage, and that the Permit Holder would be delegating the design for that to others. She further stated that Permit Holder would not pay her to coordinate the overall engineering response agreed to in the November 18, 2021 meeting. Permit Holder never arranged for an engineer

to respond to Mr. Wong's January 10 inquiry, ensuring that there was no way for him to evaluate the permit version documents as all parties agreed. Ms. Wolpe informed Mr. Wong that she had recommended that the Permit Holder hire Ninh Le of LCE Engineering to provide a waterproofing and drainage plan. Mr. Wong worked with Ms. Wolpe over the next few weeks to a mutually agreeable structural design for the retaining wall, which was finalized on February 5, when she provided a final copy of her structural plans and then bowed out of the process. (Strazzo Decl., **Exhibit K**.)

Mr. Wong contacted Mr. Le about the surface water drainage concerns. He was in the middle of these discussions with Mr. Le when Appellant discovered that Permit Holder had filed this Permit without his knowledge on February 7, 2022, without following the procedure all parties agreed to on November 18, 2021. Further, Ms. Wolpe reported that she was not aware the permit had been filed and that she had also not seen any other documents or designs. (Strazzo Decl., **Exhibit L**.) Mr. Wong went to DBI on February 16, 2022 to see what documents and drawings were on file from the permit.

The Permit contained drainage plans drawn by Permit Holder, who is not a licensed civil engineer, and which had not been provided to Appellant prior to submittal to DBI as originally agreed by the parties at the November 18, 2021 meeting. Moreover, neither Ms. Wolpe nor the Permit holder addressed the deficiencies in the plans that were identified by Mr. Wong. At a meeting with Plan Checker Jimmy Cheung on the same day, Mr, Cheung confirmed that Permit Holder falsely represented to DBI that the plans had been reviewed and approved of by Appellant's civil engineer prior to their submittal, which was untrue and a violation of the November 18, 2021 agreement. After reviewing the plans on file for the Permit at DBI, on February 18, 2022, Mr. Wong notified DBI Senior Inspector Matt Greene and Plan Checker Jimmy Cheung of Permit Holder's actions, failure to follow the process agreed to by all parties at the November 18th meeting, and the deficiencies in plans submitted by Permit Holder. (Strazzo Decl., **Exhibit M**.) Appellant subsequently filed this appeal. Permit Holder should be held to the agreement reached between the parties.

B. The Drainage Plan Does Not Comply with Plumbing Code Section 1101.2.1

> All storm water or casual water from roof areas, balconies, lightwells, courtyards or similar areas which total more than 200 square feet (18.4

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

> square meters) aggregate shall drain or be conveyed directly to the building drain, or building sewer, or to an approved alternate location based on approved geotechnical and engineering designs. Such drainage shall not be directed to flow onto adjacent property or over public way, including sidewalks. (Plumbing Code § 1101.2.1.)

Permit Holder's drainage plan, which was not designed by a licensed engineer, does not comply with the Plumbing Code as it does not adequately address how surface water will be conveyed from the Subject Property. (Wong Decl., **Exhibit A**.) Permit Holder has an extensive irrigation system installed at the Subject Property and frequently hoses down his dense vegetation, which creates more surface water than would otherwise be present from natural conditions. The Subject Property's roof also slopes towards the project area directing additional surface water. The history of the drainage problems between the Sanchez Property and the Subject Property further illustrates why the lack of proper drainage on Subject Property creates a "bathtub" in which surface water builds up and spills over the property line onto Appellant's property and home, which has a foundation at lower grade than that of the Subject property.

The standard of practice is to slope the ground away from the retaining wall, which is what the drainage plan proposes. However, the project only proposes to slope the adjacent ground away from the retaining wall for 10', which only provides for 0.2' of retention. The additional 4" (033) added height to the wall would then provide for a total of 0.53' of retention. This is not sufficient given the soil conditions in this area. (*Id*.) Permit Holder's plan appears to be to let the surface water drain through the natural soil conditions. However, the existing soil is sandy, clay soil is relatively impermeable and not free draining. (Strazzo Decl., **Exhibit N**.) Therefore, it will not properly percolate the anticipated amount of surface water from rain, roof, irrigation, and hose watering. (Wong Decl., **Exhibit A**.) Permit Holder fails to justify why an overflow system is not needed when the surface water amount exceeds the percolation rate.

C. The Permit Holder's Landscaping Practices and Previous Damages from His Surface Water and Deficient Drainage are Extenuating Circumstances the Merit Strict Compliance with the Plumbing Code's Drainage Requirements

Permit Holder's proposal to allow surface water to natural drain into the soil is also flawed because of Permit Holder maintains a continuously irrigated rear yard with dense, aggressive growth

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

vegetation and debris. (Strazzo Decl., Exhibit O.) Permit Holder's irrigation practices have caused significant damage to Appellant's property in the past. On September 17, 2020, Appellant notified Permit Holder that roots from the Subject Property were discovered growing into the Appellant's home in addition to water entry. Subsequently, the full extent of damages was discovered by the Appellant, including rotting wood siding, sill plates and studs creating openings in exterior walls allowing root and water entry at multiple points, entry of rats in those openings and resulting rat carcasses and rat feces, drywall damage, floor and subfloor damage, mildew, toxic black mold, and subterranean termites. (Strazzo Decl., Exhibit O.) The root cause of these damages were multiple faulty grade conditions on the Subject Property, consisting of soil, dense vegetation, and active irrigation placed directly against the wood-framed exterior walls and above the foundation of the home on the Sanchez property. This was exacerbated by the Subject Property's lack of surface and ground water drainage and lack of proper grading of soil away from the Appellants' home.

Permit Holder's landscaping, constant manual watering from hoses, and active irrigation all create a constant, year-round surface water drainage load. Given the limitation of the soil to drain surface water, proper drainage must be a condition of this Permit approval.

III. CONCLUSION

For these reasons, we request that the Permit be suspended until Permit Holder provides a drainage plan from a licensed engineer that complies with the Building Code.

Respectfully submitted,

Dated: March 10, 2022

By: Laura Strazzo
ZACKS, FREEDMAN & PATTERSON, PC
Attorney for Appellant,
Dan Cohen

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

RYAN J. PATTERSON (SBN 277971)
LAURA STRAZZO (SBN 312593)
ZACKS, FREEDMAN & PATTERSON, PC
601 Montgomery Street, Suite 400
San Francisco, CA 94111
Tel: (415) 956-8100
Fax: (415) 288-9755
ryan@zfplaw.com
laura@zfplaw.com

Attorneys for Appellant,
Dan Cohen

SAN FRANCISCO BOARD OF APPEALS

DAN COHEN

Appellants,

v.

SAN FRANCISCO DEPARTMENT OF BUILDING INSPECTION

Respondent.

SALO RAWET,

Permit Holder.

DECLARATION OF LAURA STRAZZO IN SUPPORT OF APPELLANT'S BRIEF

BPA No.: 202202077420
Subject Address: 405 Duncan Street

Appeal No. 22-008
Date: March 30, 2022
Time: 5:00 p.m.

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

I, Laura Strazzo, declare as follows:

1. I am an attorney at Zacks, Freedman & Patterson, PC, the firm hired to represent Appellant Dan Cohen in this appeal regarding BPA No. 202202077420. Unless otherwise stated, I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.

2. In February 2022, I submitted a Sunshine Request to DBI concerning 405 Duncan Street. From that request, I received the following exhibits.

3. Attached as **Exhibit A** is a true and correct copy of emails exchanged between Ms. Wolpe and Inspector Martin from July 2021.

4. Attached as **Exhibit B** is a true and correct copy of an email from Inspector Martin to Ms. Wolpe in July 2021 concerning drainage requirements for the retaining wall.

5. Attached as **Exhibit C** is a true and correct copy of an email between Appellant and Inspector Martin in November 2021 concerning the Original Permit.

6. Attached as **Exhibit D** is a true and correct copy of an email between Appellant and Inspectors Martin and Greene.

7. Attached as **Exhibit E** is a true and correct copy of a letter our firm sent to DBI in November 2021.

8. Attached as **Exhibit F** is a true and correct copy of a November 10, 2021 email from Joe Duffy where he states "drainage is typically required and should be documented on the plans on a detail."

9. Attached as **Exhibit G** is a true and correct letter written by licensed landscape architect Paul Thunstrom to DBI concerning the drainage issues with the proposed retaining wall.

10. Attached as **Exhibit H** is a true and correct email from Robert Wong concerning what the parties had agreed to at the November 18th meeting.

11. Attached as **Exhibit I** is a true and correct copy of the structural plans Ms. Wolpe sent to Mr. Wong on December 27, 2021.

12. Attached as **Exhibit J** is a true and correct copy of the email Mr. Wong sent on January 10, 2022.

13. Attached as **Exhibit K** is a true and correct copy of the email Ms. Wolpe sent to Mr. Wong on February 5, 2022.

14. Attached as **Exhibit L** is a true and correct copy of the email Ms. Wolpe sent on February 18, 2022.

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

15. Attached as **Exhibit M** is a true and correct copy of the email that Mr. Wong sent on February 18, 2022.

16. Attached as **Exhibit N** is a true and correct copy of Appellant's Geotechnical Engineer Eddy Lau's analysis of the soil conditions at the Subject Property.

17. Attached as **Exhibit O** is a true and correct copy of photos of the Subject Property taken and notated by Appellant.

18. Attached as **Exhibit P** is a true and correct copy of photos of the Subject Property taken and notated by Appellant.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this was executed on March 10, 2022.

Laura Strazzo

Laura Strazzo

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

EXHIBIT A

From: Martin, Damien (DBI)
To: Nilgun Wolpe
Subject: RE: 405 Duncan Street
Date: Friday, July 30, 2021 9:56:00 AM

Hi Nilgun
Yes 4" perforated pipe is required to run along the length of the new retaining wall on the property side doing the work.
Drainage run off water does not get connected to city sewage. You can install a catch basin and the connect to water run off system. Another option is to install a Dissipater. These options are designed to prevent water at the higher property from seeping onto the adjacent property below.

Hopefully this was helpful

Damien

From: Nilgun Wolpe <[redacted]
Sent: Friday, July 30, 2021 8:58 AM
To: Martin, Damien (DBI) <damien.martin@sfgov.org>
Subject: Re: 405 Duncan Street

Hello Damien
The client who hired me was aware of those .
No work will start until revision completed and permitted . They are agreed with my observations.
1- I suggested soil report . They are in the process of hiring
.
Because neighbor footing lower then us . I might need to design pier every 10 ft or less depending on soil report to match neighbor footing
2 - regarding to drainage .
I excluded from my proposal . I do not design waterproofing / drainage
Any condition I will show 4 inches drain pipe or 1 inches rectangular drain behind of my retaining wall .
In the client property .
Question -4 inches drain pipe or 1 inches drain pipe needs to connected City sewage ?
Any suggestion regarding drainage .

Should I ask my client hire drainage expert for drainage plans ?
Could you give me your opinion please ?
Regards
NW

Sent from my iPhone

> On Jul 30, 2021, at 8:46 AM, Martin, Damien (DBI) <damien.martin@sfgov.org> wrote:

Hi Nilgun.
Thank you for your email. Somehow I missed this and Dan Cohan forwarded me your email.

So your observation is good and you will revise the original drawings?
There is still the issue of drainage away from the neighbor at the new section of retaining wall which will need to be shown on the revision.
No work to start before revision is issued.

Thank you

Damien

From: NY Engineering <[redacted]
Sent: Tuesday, July 27, 2021 1:49 PM
To: Martin, Damien (DBI) <damien.martin@sfgov.org>
Subject: 405 Duncan Street

Hello Damien:

I believe I talked with you last week on July 22 nd in the afternoon.
I was hired by 405 Duncan street owner to prepare the retaining wall 2 feet/ 3 feet height..
The project is permitted .But Drainage was eliminated from the approval drawings. It was eliminated by hand writing.
I asked 405 Duncan owners .The owner told me that plan checker requested to eliminate the plan checker.
I originally called water proofing and drainage by others.(Drainage was crossed from the approval drawings)

The neighbor of 405 Duncan street ,Dan contacted me and sent me the approval drawings.
I wanted to meet everybody at the site before anybody start construction.

Here are my observations.

1- the trench was prepared 18 inches to 24 inches away from Dan house.
2-I also saw 4 feet sections of the property was 6 feet height dirt.
It means 6 feet retaining wall. The permit was only for 3 feet max retaining wall.
3-the **neighbor footing** was lower then 405 Duncan Street footing that was approved.
Originally the footing that was designed was matching bottom of the neighbor footing.

In this condition ,I recommended to do revisions for the drawings before any construction starts.
Please let me your opinion about this condition.

Regards

Nilgun Wolpe
NY Engineering

EXHIBIT B

From: [redacted]
To: [redacted]
Subject: Fw: Fwd: 405 Duncan St eet
Date: Tuesday September 21 2021 7:30:25 PM

Here is the email from Damien for the retaining wall we discussed.
Owner of Duncan property is not against building the wall. He would like direction prior to designing to absolve any dispute with neighbor.
Can we meet there?

Leo McFadden

Sent from Yahoo Mail on Android

----- Forwarded Message -----
From: "David Gellman" [redacted]
To: [redacted]
Sent: Wed, Sep 1, 2021 at 10 01 AM
Subject: Fwd 405 Duncan Street

David R. Gellman

Begin forwarded message:

From: salorawet [redacted]
Date: September 1, 2021 at 9:31:55 AM PDT
To: David Gellman [redacted]
Subject: Fw: 405 Duncan Street

-------- Original message --------
From: NY Engineering [redacted]
Date: 8/31/21 18:34 (GM1-08:00)
To: Salorawet [redacted]
Subject: Fw: 405 Duncan Street

He lo Salo:
Dam en is the inspector Dan was alking that day and the inspector wanted to talk to me.
He requested the drainage and I asked h s opin on.
P ease see the ema l below.

Ni gun Wolpe
NY Engineering
850 S Van Ness su te :9
San Francisco ,Ca 9 110
T: 1- 15-568-1270
email:[redacted]
https://avanan.url-protection.com/v1/url?o=www.nyengineering.net&g=ZDZhOTRiZWJmNzg1ZTBiZA==&h=MzE3MDUyYTExNDkyZjU N2Y5YmFkZTc0NWI2OWNhMzY3ZmUxY2UyMDA3NDUzYmY1Y2Y0ZTc3ZjRhYWE5MGIxNw==&p=YXAzOnNmZHQyOmF2YW5hbjpvOmQxZmM NGExNTE ZjI2NjE1ODBkNzJmNWJ MjlIYjlyOnYx

----- Forwarded Message -----
From: Martin, Dam en (DBI) <damien martin@sfgov.org>
o: Nilgun Wolpe [redacted]
Sent: Friday, July 30, 202 , 09 56 2 AM PD
Subject: RE: 05 Duncan Street

Hi Nilgun

Yes 4" perforated pipe is required to run along the length of the new retaining wall on the property side doing the work.

Drainage run off water does not get connected to city sewage. You can install a catch basin and the connect to water run off system. Another option is to install a Dissipater. These options are designed to prevent water at the higher property from seeping onto the adjacent property below.

Hopefully this was helpful

Damien

EXHIBIT C

From: Dan Cohen
To: Martin, Damien (DBI)
Subject: Checking In - 405 Duncan
Date: Wednesday, November 3, 2021 7:11:00 PM

Hi Damien:

Were you ever able to meet with the owner's contractor about the issues in the complaint?

Also, I'm noticing noticing their permit 202105070002 is still marked as "issued." Given the email to you from their engineer about the required changes (see below) and your comment that work isn't to start without a revision, is there a way for you to get the permit revoked or put on hold pending approved revisions?

Dan Cohen
[redacted]

From: Nilgun Wolpe <[redacted]
Date: Friday, July 30, 2021 at 3:52 PM
To: Dan Cohen <dan@dancohen.com>
Subject: Fwd: 405 Duncan Street

Hello Dan
Here it is
NW

Sent from my iPhone

Begin forwarded message:

From: "Martin, Damien (DBI)" <damien.martin@sfgov.org>
Date: July 30, 2021 at 9:56:24 AM PDT
To: Nilgun Wolpe <[redacted]
Subject: RE: 405 Duncan Street

Hi Nilgun
Yes 4" perforated pipe is required to run along the length of the new retaining wall on the property side doing the work.
Drainage run off water does not get connected to city sewage. You can install a catch basin and the connect to water run off system. Another option is to install a Dissipater. These options are designed to prevent water at the higher property from seeping onto the adjacent property below.

Hopefully this was helpful

Damien

From: Nilgun Wolpe <[redacted]
Sent: Friday, July 30, 2021 8:58 AM
To: Martin, Damien (DBI) <damien.martin@sfgov.org>
Subject: Re: 405 Duncan Street

Hello Damien
The client who hired me was aware of those .
No work will start until revision completed and permitted . They are agreed with my observations.
1- I suggested soil report . They are in the process of hiring
.
Because neighbor footing lower then us . I might need to design pier every 10 ft or less depending on soil report to match neighbor footing
2 - regarding to drainage .
I excluded from my proposal . I do not design waterproofing / drainage
Any condition I will show 4 inches drain pipe or 1 inches rectangular drain behind of my retaining wall .
In the client property .
Question -4 inches drain pipe or 1 inches drain pipe needs to connected City sewage ?
Any suggestion regarding drainage .

Should I ask my client hire drainage expert for drainage plans ?
Could you give me your opinion please ?
Regards
NW

Sent from my iPhone

On Jul 30, 2021, at 8:46 AM, Martin, Damien (DBI) <damien.martin@sfgov.org> wrote:

Hi Nilgun.
Thank you for your email. Somehow I missed this and Dan Cohan forwarded me your email.

So your observation is good and you will revise the original drawings?
There is still the issue of drainage away from the neighbor at the new section of retaining wall which will need to be shown on the revision.
No work to start before revision is issued.

Thank you

Damien

From: NY Engineering <[redacted]
Sent: Tuesday, July 27, 2021 1:49 PM
To: Martin, Damien (DBI) <damien.martin@sfgov.org>
Subject: 405 Duncan Street

Hello Damien:

I believe I talked with you last week on July 22 nd in the afternoon.
I was hired by 405 Duncan street owner to prepare the retaining wall 2 feet/ 3 feet height..
The project is permitted .But Drainage was eliminated from the approval drawings. It was eliminated by hand writing.
I asked 405 Duncan owners .The owner told me that plan checker requested to eliminate the plan checker.
I originally called water proofing and drainage by others.(Drainage was crossed from the approval drawings)

The neighbor of 405 Duncan street ,Dan contacted me and sent me the approval drawings.
I wanted to meet everybody at the site before anybody start construction.

Here are my observations.

1- the trench was prepared 18 inches to 24 inches away from Dan house.
2-I also saw 4 feet sections of the property was 6 feet height dirt.
It means 6 feet retaining wall. The permit was only for 3 feet max retaining wall.
3-the **neighbor footing** was lower then 405 Duncan Street footing that was approved.
Originally the footing that was designed was matching bottom of the neighbor footing.

In this condition ,I recommended to do revisions for the drawings before any construction starts.
Please let me your opinion about this condition.

Regards

Nilgun Wolpe
NY Engineering

EXHIBIT D

From: Dan Cohen
To: Martin, Damien (DBI); Greene, Matthew (DBI)
Subject: Permit 202105070002 for 405 Duncan St
Date: Monday, November 8, 2021 2:45:34 PM
Attachments: 202105070002 Engineer Drawings.pdf

Hi Damien and Matt:

I wanted to make sure you both had this email exchange from July handy between Damien and Nigun Wolpe, the engineer for the plans for the permit 202105070002 for 405 Duncan St. She said in her July 27 email that based on her observations on July 22 of both our property and theirs after the permit was issued, a structural redesign of the retaining wall including a soil inspection was necessary due to incorrect information provided to her about our foundation by the owners. That is in addition to and separate from the drainage issue - it is a structural requirement to avoid compromising our foundation. Note also that she states that the actual heights of the retaining wall will exceed what was allowed for in the permit.

She also notes that she didn't design a drain but indicated it was to be designed by others, which is why on page 2 you'll note that there is no drain or pipe specified in the footing. As she says in her July 27 email, the word "drainage" from her plans was scratched out in an attempt by the owners to avoid having a drain designed and installed.

Dan

From: Nilgun Wolpe <[redacted]
Date: Friday, July 30, 2021 at 3:52 PM
To: Dan Cohen <dan@dancohen.com>
Subject: Fwd: 405 Duncan Street

Hello Dan
Here it is
NW

Sent from my iPhone

Begin forwarded message:

From: "Martin, Damien (DBI)" <damien.martin@sfgov.org>
Date: July 30, 2021 at 9:56:24 AM PDT
To: Nilgun Wolpe <[redacted]
Subject: RE: 405 Duncan Street

Hi Nilgun
Yes 4" perforated pipe is required to run along the length of the new retaining wall on the property side doing the work.
Drainage run off water does not get connected to city sewage. You can install a catch basin and the connect to water run off system. Another option is to install a Dissipater. These options are designed

to prevent water at the higher property from seeping onto the adjacent property below.

Hopefully this was helpful

Damien

From: Nilgun Wolpe <[redacted]
Sent: Friday, July 30, 2021 8:58 AM
To: Martin, Damien (DBI) <damien.martin@sfgov.org>
Subject: Re: 405 Duncan Street

Hello Damien
The client who hired me was aware of those .
No work will start until revision completed and permitted . They are agreed with my observations.
1- I suggested soil report . They are in the process of hiring
.
Because neighbor footing lower then us . I might need to design pier every 10 ft or less depending on soil report to match neighbor footing
2 - regarding to drainage .
I excluded from my proposal . I do not design waterproofing / drainage
Any condition I will show 4 inches drain pipe or 1 inches rectangular drain behind of my retaining wall .
In the client property .
Question -4 inches drain pipe or 1 inches drain pipe needs to connected City sewage ?
Any suggestion regarding drainage .

Should I ask my client hire drainage expert for drainage plans ?
Could you give me your opinion please ?
Regards
NW

Sent from my iPhone

On Jul 30, 2021, at 8:46 AM, Martin, Damien (DBI) <damien.martin@sfgov.org> wrote:

Hi Nilgun.
Thank you for your email. Somehow I missed this and Dan Cohan forwarded me your email.

So your observation is good and you will revise the original drawings?
There is still the issue of drainage away from the neighbor at the new section of retaining wall which will need to be shown on the revision.
No work to start before revision is issued.

Thank you

Damien

From: NY Engineering <[redacted]
Sent: Tuesday, July 27, 2021 1:49 PM
To: Martin, Damien (DBI) <damien.martin@sfgov.org>
Subject: 405 Duncan Street

Hello Damien:

I believe I talked with you last week on July 22 nd in the afternoon.
I was hired by 405 Duncan street owner to prepare the retaining wall 2 feet/ 3 feet height..
The project is permitted .But Drainage was eliminated from the approval drawings. It was eliminated by hand writing.
I asked 405 Duncan owners .The owner told me that plan checker requested to eliminate the plan checker.
I originally called water proofing and drainage by others.(Drainage was crossed from the approval drawings)

The neighbor of 405 Duncan street ,Dan contacted me and sent me the approval drawings.
I wanted to meet everybody at the site before anybody start construction.

Here are my observations.

1- the trench was prepared 18 inches to 24 inches away from Dan house.
2-I also saw 4 feet sections of the property was 6 feet height dirt.
It means 6 feet retaining wall. The permit was only for 3 feet max retaining wall.
3-the **neighbor footing** was lower then 405 Duncan Street footing that was approved.
Originally the footing that was designed was matching bottom of the neighbor footing.

In this condition ,I recommended to do revisions for the drawings before any construction starts.
Please let me your opinion about this condition.

Regards

Nilgun Wolpe
NY Engineering

EXHIBIT E

ZACKS, FREEDMAN & PATTERSON
A PROFESSIONAL CORPORATION

601 Montgomery Street, Suite 400
San Francisco, California 94111
Telephone (415) 956-8100
Facsimile (415) 288-9755
www.zfplaw.com

November 9, 2021

VIA EMAIL & U.S. MAIL

Senior Inspector Matt Greene
District Inspector Damien Martin
San Francisco Department of Building Inspection
49 Van Ness Ave
San Francisco, CA 94103
Matthew.Greene@sfgov.org
damien.martin@sfgov.org

Re: 405 Duncan Street – BPA 202105070002

Dear Inspectors Greene and Martin:

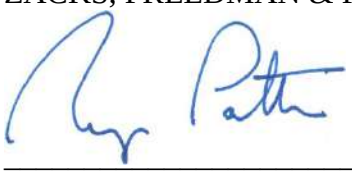
Our office has been retained by the owner of 1468 Sanchez Street, the property to the immediate south of 405 Duncan Street. Our client is deeply concerned about DBI's issuance of BPA 202105070002 for the installation of a retaining wall adjacent to his house. This permit was issued based on plans with inaccurate structural information and without drainage. On July 30, 2021, **the project's engineer notified Inspector Martin that the plans are inaccurate and that a revision is necessary**. She wrote: "In this condition, I recommended to do revisions for the drawings before any construction starts." (Attached.) However, to date the permit has not been suspended, and revised plans have not been submitted.

My client is in the process of hiring a consultant to evaluate the structural and drainage issues concerning the retaining wall. We request that the Department suspend this permit until accurate, code-compliant plans are submitted.

We understand a site meeting is being planned for next Thursday, 11/18, at 1:00. We would be happy to attend. Please do not hesitate to contact me at (415) 956-8100.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



Ryan J. Patterson, Esq.

Encl.

From: "Martin, Damien (DBI)" <damien.martin@sfgov.org>
Date: July 30, 2021 at 9:56:24 AM PDT
To: Nilgun Wolpe <nyengineering@sbcglobal.net>
Subject: RE: 405 Duncan Street

Hi Nilgun
Yes 4" perforated pipe is required to run along the length of the new retaining wall on the property side doing the work.
Drainage run off water does not get connected to city sewage. You can install a catch basin and the connect to water run off system. Another option is to install a Dissipater. These options are designed to prevent water at the higher property from seeping onto the adjacent property below.

Hopefully this was helpful

Damien

From: Nilgun Wolpe <nyengineering@sbcglobal.net>
Sent: Friday, July 30, 2021 8:58 AM
To: Martin, Damien (DBI) <damien.martin@sfgov.org>
Subject: Re: 405 Duncan Street

Hello Damien
The client who hired me was aware of those .
No work will start until revision completed and permitted . They are agreed with my observations.
1- I suggested soil report . They are in the process of hiring
.
Because neighbor footing lower then us . I might need to design pier every 10 ft or less depending on soil report to match neighbor footing
2 - regarding to drainage .
I excluded from my proposal . I do not design waterproofing / drainage
Any condition I will show 4 inches drain pipe or 1 inches rectangular drain behind of my retaining wall .
In the client property .
Question -4 inches drain pipe or 1 inches drain pipe needs to connected City sewage ?
Any suggestion regarding drainage .

Should I ask my client hire drainage expert for drainage plans ?
Could you give me your opinion please ?
Regards
NW

Sent from my iPhone

On Jul 30, 2021, at 8:46 AM, Martin, Damien (DBI) <damien.martin@sfgov.org> wrote:

Hi Nilgun.
Thank you for your email. Somehow I missed this and Dan Cohan forwarded me your email.

So your observation is good and you will revise the original drawings?
There is still the issue of drainage away from the neighbor at the new section of retaining wall which will need to be shown on the revision.
No work to start before revision is issued.

Thank you

Damien

From: NY Engineering <nyengineering@sbcglobal.net>
Sent: Tuesday, July 27, 2021 1:49 PM
To: Martin, Damien (DBI) <damien.martin@sfgov.org>
Subject: 405 Duncan Street

Hello Damien:

I believe I talked with you last week on July 22 nd in the afternoon.
I was hired by 405 Duncan street owner to prepare the retaining wall 2 feet/ 3 feet height..
The project is permitted .But Drainage was eliminated from the approval drawings. It was eliminated by hand writing.
I asked 405 Duncan owners .The owner told me that plan checker requested to eliminate the plan checker.
I originally called water proofing and drainage by others.(Drainage was crossed from the approval drawings)

The neighbor of 405 Duncan street ,Dan contacted me and sent me the approval drawings.
I wanted to meet everybody at the site before anybody start construction.

Here are my observations.

1- the trench was prepared 18 inches to 24 inches away from Dan house.
2-I also saw 4 feet sections of the property was 6 feet height dirt.
It means 6 feet retaining wall. The permit was only for 3 feet max retaining wall.
3-the **neighbor footing** was lower then 405 Duncan Street footing that was approved.
Originally the footing that was designed was matching bottom of the neighbor footing.

In this condition ,I recommended to do revisions for the drawings before any construction starts.
Please let me your opinion about this condition.

Regards

Nilgun Wolpe
NY Engineering

EXHIBIT F

From: Duffy, Joseph (DBI)
To: Murray, John (DBI)
Cc: Greene, Matthew (DBI); McHugh, Kevin (DBI); Clancy, Fergal (DBI)
Subject: RE: 405 Duncan - SF DBI Complaint 202182941/Permit 202105070002
Date: Wednesday, November 10, 2021 2:56:00 PM

Hi John.

Thank you for the heads up and it sounds as if Inspector Martin has done the correct thing and involved his supervisor. And a follow up site meeting has been scheduled.

I am not sure the term bullying an inspector is something I am familiar with .

The issue is either a building code requirement or issue or it is not.

Senior Inspector Greene also has the ability to involve a DBI engineer if he feels that is appropriate .

I will copy Matt on this reply he is our for a couple of days and is back on Monday.

We will not be suspending the permit yet and just to note that drainage is typically required and should be documented on the plans on a detail. That usually is part of the plan review. In past instances I have requested the engineer of record to provide a drainage detail if none was on the plans.

Kevin Mc Hugh is now the acting Chief at BID. Kevin is copied on this reply. If Kevin feels the need that a sooner meeting should be held he can check in with Damian.

Joe

Joseph Duffy
Deputy Director
Inspection Services
Dept of Building Inspection
San Francisco
628-652-3610

From: Murray, John (DBI) <john.patrick.murray@sfgov.org>
Sent: Wednesday, November 10, 2021 2:10 PM
To: Duffy, Joseph (DBI) <joseph.duffy@sfgov.org>
Subject: FW: 405 Duncan - SF DBI Complaint 202182941/Permit 202105070002

FYI

From: Dan Cohen <dan@dancohen.com>
Sent: Wednesday, November 10, 2021 2:03 PM
To: Murray, John (DBI) <john.patrick.murray@sfgov.org>; Buckley, Jeff (DBI)

<jeff.buckley@sfgov.org>
Cc: Thornhill, Jackie (BOS) <jackie.thornhill@sfgov.org>; Bintliff, Jacob (BOS) <jacob.bintliff@sfgov.org>; Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>
Subject: Re: 405 Duncan - SF DBI Complaint 202182941/Permit 202105070002

Hi John and Jeff:

This is an update about 405 Duncan St - SF DBI Permit 202105070002/Complaint 202182941. I'd appreciate you continuing to alert Chief Building Inspector Duffy about the following developments and attached letter, to ensure that the rental property owners don't game the system to avoid doing what's required to protect our adjacent home and property.

If you'll recall, the owner's own engineer told the inspector and the owners that after a site visit, their permitted retaining wall needed to be redesigned for structural reasons, and the local inspector Damien Martin communicated to the engineer that drainage was required. Based on that, the permit should have been suspended at that time, July 27, 2021.

Last Thursday, the rental property owners (including retired real estate attorney David Gellman) met inspector Martin at the site and bullied him into not making the call then to suspend the permit and enforce code, and made representations about drainage systems on site that don't exist. As a result, Martin felt he needed another meeting at the site next week Thursday March 18 at 1 PM, where senior inspector Matt Greene will attend.

These are the aforementioned "gaming the system" moves Gellman is making that I'm asking for your help to prevent. Failure to suspend this permit as required by the owner's own engineer for a redesign and proceeding without drainage (or drainage based on an invalid retaining wall design) represents a threat to our home and property.

Due to the urgency here, we've retained the services of Ryan Patterson of Zacks, Freedman, and Patterson to represent us. They've sent a letter to inspectors Martin and Greene (attached) outlining the issue and suspending the permit.

Thanks for your help. Please let me know if you have any questions or issues.

Dan Cohen
[redacted]

EXHIBIT G

From: Paul Thunstrom
To: dan@dancohen.com
Cc: mathew.greene@sfgov.org; Martin, Damien (DBI); ryan@zfplaw.com
Subject: Consultation
Date: Thursday, November 18, 2021 1:22:00 PM
Attachments: 1468 Sanchez_Letter_SFDBI_11-18-2021_Stamped.pdf

Dan,

Please see attached a letter outlining the findings of my site inspection and plan review regarding the retaining wall proposed to be installed at 405 Duncan St.

Best regards,
Paul Thunstrom
Landscape Architect
RLA 6284

PAUL THUNSROM
LANDSCAPE ARCHITECTURE
RLA 6284

45 MANZANITA AVE
SAN RAFAEL CA, 94901
415-559-3161

November 18, 2021

Senior Inspector Matt Greene
District Inspector Damien Martin
San Francisco Department of Building Inspection
49 Van Ness Ave
San Francisco, CA 94103

Dear Inspectors, Green and Martin:

I am a California Licensed Landscape Architect and have been retained by the property owner of 1468 Sanchez St, San Francisco, CA to provide professional consulting services as allowed under the California Professions code for Landscape Architecture.

The scope of my consulting service is to evaluate the new retaining wall proposed by the owners of the property at 405 Duncan Street which shares a property line with 1468 Sanchez St. along which the new wall is proposed to be installed.

I have reviewed the current site conditions at the location of the proposed wall installation and the wall plans submitted to SF DBI and incorporated into BPA 202105070002 issued by SF DBI for the proposed wall.

My review uncovered discrepancies between existing site conditions and the proposed wall plans and specifications, which warrant immediate suspension of BPA 202105070002 until plan and permit revisions ensure adequate protection from water and soil intrusion across the property line onto the property of 1468 Sanchez St.

Issues that have been noted with the proposed wall per building permit and plan are as follows:

1. Submitted plan does not represent the actual required wall height. Dimension "H" on plan is referenced to a chart stating a height of 3' while existing site conditions require a wall height of up to or exceeding 7' as required to retain the existing grade at 405 Duncan St. including the specified 8" extension of wall height above finished grade.

2. The plan and permit does not include any sub-surface drainage feature behind the proposed wall structure on the property of 405 Duncan St. to remove water from behind wall and away from 1468 Sanchez St property. Existing observed site conditions are expected to create a high potential for significant hydrostatic water pressure behind the proposed wall and some means to relieve this expected condition behind wall and prevent potential water intrusion into 1468 Sanchez St. property is considered to be necessary in this situation.

PAUL THUNSROM
LANDSCAPE ARCHITECTURE
RLA 6284

45 MANZANITA AVE
SAN RAFAEL CA, 94901
415-559-3161

3. No grading or drainage plan has been submitted that shows an adequate surface drainage conveyance system to ensure surface runoff will be moved away from the property line at 1468 Sanchez St. A grading and drainage plan is required to confirm that no surface runoff will enter the property at 1468 Sanchez St. across the property line with 405 Duncan St.

In conclusion, I advise that SF DBI immediately suspend BPA 202105070002 until revised and modified plans are submitted to address the above stated concerns. I am also advising that the current condition at the property line between 405 Duncan St and 1468 Sanchez St. requires immediate resolution to prevent eminent property damage from occurring at 1468 Sanchez St. due to unmitigated soil erosion and water intrusion which is occurring and ongoing due to the open excavation and unstable grade condition currently existing at the property line.

Respectfully submitted,

Paul Thunstrom

Landscape Architect

EXHIBIT H

From: Robert Wong
To: Martin, Damien (DBI); Greene, Matthew (DBI)
Cc: Cheung, Jimmy (DBI); [redacted] Michael J. Kloepfer [redacted] dan@dancohen.com; [redacted] Salo Salo
Subject: 405 Duncan Street - BPA 202105070002
Date: Monday, December 6, 2021 8:39:26 AM
Attachments: logo-sm_bd5ec5d5-1114-4798-bec7-1fadaaf4a7bb.png
ribbon-40_a84a7e65-c6d7-40e1-a3b7-f7ff6e2d6bc1.png

Hi Matthew and Damien, I am following up with this email after our meeting on November 18th . All those in attendance are listed below and copied in this email except for Leo which I do not have his last name nor do I have his email address. It's my understanding he was there on behalf of Mr. Gellman and Mr. Rawet.

Subsequent to this meeting I have spoken to Nilgun Wolpe the engineer of record for the BPA202105040002 (405 Duncan Street) and she will be revising the plans and calculations and forwarding it to me for review prior to resubmitting to your office. She understands during our November 18th meeting, we have discussed setting a time frame of 45 days to resubmit to your office. She is copied in this email.

November 18, 2021 Meeting Attendee:
David Gellman and Salo Rawet, Property owners of 405 Duncan Street
Dan Cohen, Property owner of 14698 Sanchez Street
Matthew Greene, SF DBI Senior Building Inspector
Damien Martin, SF DBI Building Inspector
Jimmy Cheung, SF Plan Checker
Michael Kloepfer (Representing Tom Reeves, Civil Engineer) on behalf of Dan Cohen
Robert Wong, Aliquot Associates, Civil Engineer on behalf of Dan Cohen
Leo on behalf of David Gellman and Salo Rawet

Thanks.

Robert

ALIQUOT
Civil Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

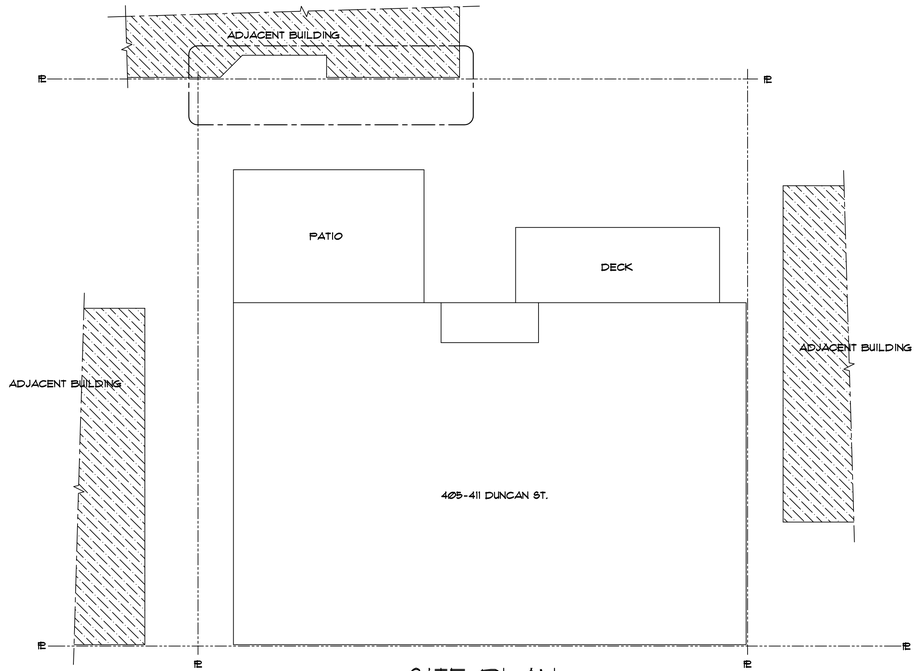
Robert C. Wong, P.E. | Principal
rwong@aliquot.com | 925.476.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 94596
P 925.476.2300
F 925.476.2350

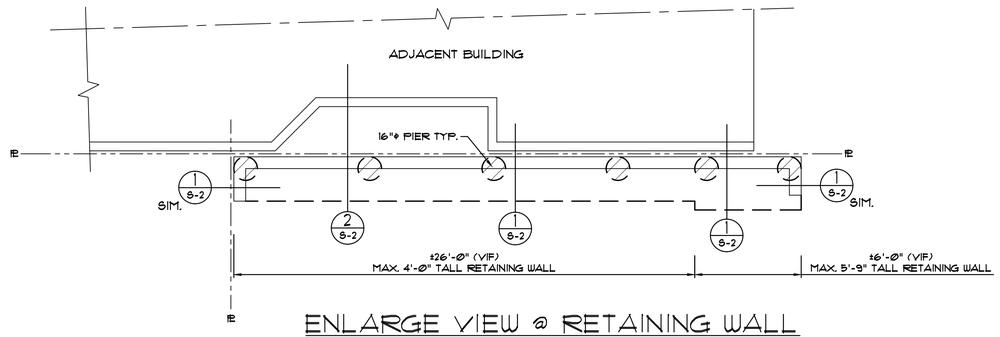
OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 94608
P 510.601.5101
F 510.601.5171

www.aliquot.com

EXHIBIT I



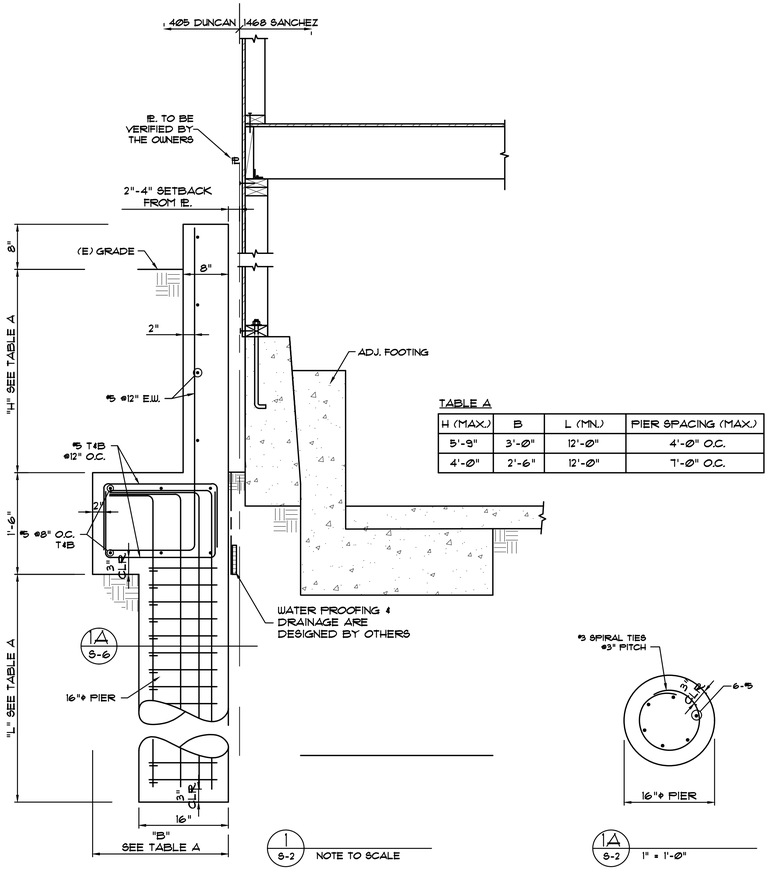
SITE PLAN
SCALE: 1/8" = 1'-0"



ENLARGE VIEW @ RETAINING WALL
SCALE: 1/4" = 1'-0"

SCOPE OF WORK:

RETAINING WALL DESIGN @PROPERTY LINE

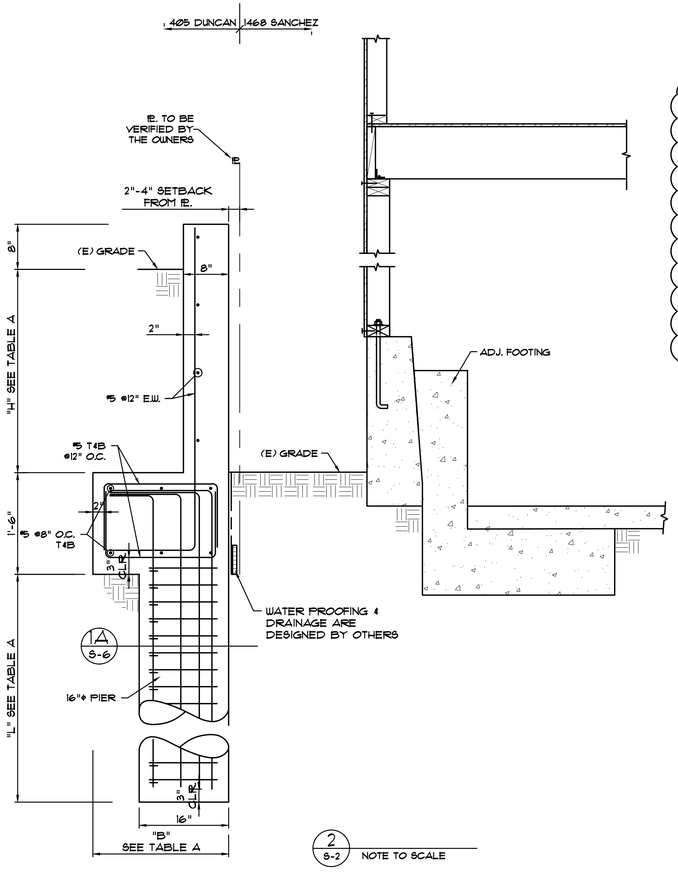


1 S-2 NOTE TO SCALE

TABLE A

H (MAX.)	B	L (MIN.)	PIER SPACING (MAX.)
5'-9"	3'-0"	12'-0"	4'-0" O.C.
4'-0"	2'-6"	12'-0"	7'-0" O.C.

1A S-2 1" = 1'-0"



2 S-2 NOTE TO SCALE

NOTE:

1. TEMPORARY SHORING UNDER SEPARATE PERMIT OR FOOTING SHALL BE POURED IN ± 4'-0" SECTIONS

2. NY ENGINEERING HAS NO RESPONSIBILITY FOR SITE PLAN, PROPERTY LINES, & SETBACKS. SITE PLAN IS PROVIDED BY THE OWNERS

3. NY ENGINEERING HAS NO RESPONSIBILITY FOR WATER PROOFING & DRAINAGE. THEY ARE DESIGNED BY OTHERS. NY ENGINEERING DOES NOT DESIGN DRAINAGE/WATERPROOFING RELATED WITH THIS RETAINING WALL.

NOT FOR CONSTRUCTION
PROGRESS DRAWING ONLY

AGENCY USE ONLY

NY ENGINEERING
Consulting Engineers
NILGUN A. WOLPE (P.E.)
850 S. Van Ness Ave, Suite #3
San Francisco, CA 94110
Tel: (415) 568-1210
Email: NYengineering@SBCglobal.net
Web: www.nyengineering.net

REGISTERED PROFESSIONAL ENGINEER
NILGUN A. WOLPE
No. 68482
Exp. SEP. 30, 2023
CIVIL
STATE OF CALIFORNIA

SITE PLAN & DETAILS

405 DUNCAN ST.
SAN FRANCISCO, CA

Submitted on:
Revisions:
12/22/2021
1 2 3 4 5 6

DEC 9, 2021

Scale: AS SHOWN

Drawing No.
S-2

EXHIBIT J

From: Bo ert Wong
To: NY Engineering
Cc: 221175; Martin Dam en (DBI); Greene Matthew (DBI); Cheung J mmy (DBI); M chael J. K ppo er [redacted] dan@dancohen.com [redacted] Sa o Salo
Subject: RE: 405 Duncan project
Date: Wednesday January 12 2022 2:40:18 PM
Attachments: imaoe001 ng
imaoe002 nng
[redacted]
ribbon-40 a84a7e65-c6d7-40e1-a3b7-f7 f6e2d6bc1 ong

All sorry I neglected to copy all. Thanks.

Robert

ALIQUOT
Civ l Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
rwong@al quot.com | 925. 76 2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 9 596
P 925. 76.2300
F 925. 76.2350

OAKLAND
953 W. MacArthur Blvd. S e. 11
Oak and, CA 9 608
P 510.601.5101
F 510.601 5171

www.al quot.com

From: Robert Wong
Sent: Monday, January 10, 2022 6:56 PM
To: NY Engineering
Cc: 221175
Subject: RE: 405 Duncan project

Hi Nilgun

Thank you for emai ing documents to me on Monday December 27th. The documents received are as follows:

1. Geotechnical Investigation Report by Wayne Ting & Associates, dated December 8, 2021
2. Geotechnical Foundation Plan Review Letter by Wayn Ting & Associates, dated December 22, 2021
3. Site Plan & Details by NY Engineering, Drawing S-2, dated Dec 9, 2021 with a Revision date of 12/22/21
4. Cantilevered Retaining Wall Calculations by N.Y Engineering, Project Name of 405 Duncan St, 8 sheets

The S-2 Sheet is labeled as "Site Plan & Details" which I assume is a site plan specifica ly only to locate the wall in relationship to the property. I did not receive a S-1 drawing. I presume there will be a civil engineering site plan/drainage plan which will call out bottom and top of the retaining wall elevations at specific locations and how the drainage will be handled. In order to fully respond to your proposed design I will need to see this site/drainage plan as well as any other drawings and designs including those for any other improvements in the yard and/or any improvements near the retaining wall. Have your clients retained a civil engineer to provide these and do you know when they will be available to review?

The S-2 plan sheet shows deta ls of the retaining wall with 2 cross sections. However there was no information on the drainage of the 405 Duncan Street yard nor any waterproofing details. Here are comments based on my review of the S-2 drawing you have provided so far:

- A drainage system that moves all surface water from the yard into the public street without entering onto other private property must be added. Based on my site observation along with this one plan sheet, the rear yard of 405 Duncan Street appears to have no existing drainage system that will move any surface water to the public street without traversing thru another private property, specifically my client's property, 1468 Sanchez Street.
- The S-2 Sheet proposes a drainage system on the outside of the grade beam. It doesn't show the system connected and a means to move the water into the public street.
- There are no details of waterproofing the 1468 Sanchez Street concrete stem/foundation, nor for the portions of the currently above-grade exterior wall above that foundation that will be trapped behind the retaining wall .
- Seepage must be prevented from entering the 1468 Sanchez Street building light well area, and retaining wall deflection must be prevented from placing pressure on the building. One possibility to address these is to install a vertical compressible material plug at the area adjacent to the light well.
- Sloping the ground adjacent to the retaining wall away from the wall is required to keep surface water from building up behind the wall and coming into contact with the 1468 Sanchez Street building.
- The retaining wall setback is called out to be 2" to 4" on your cross section. I believe it should be 4" clear from the property line/building face since it's up against a wood frame wall.

I see in your notes that you "have no responsibility for waterproofing and drainage" and that these wi l be "designed by others." Have your clients retained a licensed engineer with specific drainage system expertise to address these issues and provide designs for waterproofing and drainage and do you know when they will be available to review?

I look forward to receiving the additional engineer-prepared design documents above and any other additional plans documents or revisions so that I may complete my review of the complete retaining wall redesign and revised permit application.

Robert Wong

ALIQUOT
Civil Engineers
Traf ic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
[redacted] | 925. 76.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 9 596
P 925. 76.2300
F 925. 76.2350

OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 9 608
P 510.601.5101
F 510.601.5171

www.a iquot.com

From: NY Engineering [ma ltc [redacted]
Sent: Monday, December 27, 2021 12: 0 PM
To: Robert Wong
Subject: 405 Duncan project

Hello Robert :
Please see the attached
1-Strcu ural design of retaining wall
2-Calculations
3-Soil report
4-approval letter form the soil engineer

Nilgun Wolpe
NY Engineering
850 S.Van Ness suite :9
San Francisco ,Ca 94110
T: 1-415- 68-1270
email [redacted]
https://avanan.url-pro ection.com/v1 url?
o www nyengineering net&g ZmFhYzQwNDU1YWRlYz15Yw &h NDA NTgwNjNmYjljNGJkOTRkNTY5OWM3NTNiZTJiMGNjNTBiNzI2NDExM2RhYWEzYWFjMDk4OTE4NGQxNThmYw &p YXAzOnNmZHQyOmF2YW5hbjpvOjg2ZTU0ZDcxZWJkOTlkNDdlNTdiMjYwYjBhOWYzMzhlOnYxOnQ6Tg

EXHIBIT K

Subject: Re: 405 Duncan project submittal
Date: Saturday, February 5, 2022 at 10:01:11 AM Pacific Standard Time
From: NY Engineering
To: Robert Wong
CC: 221175, Dan Cohen
Attachments: 405 Duncan-2nd Submittal 24X36 (1).pdf, 405 Duncan-2nd Submittal.pdf, image001.png, image002.png, logo-sm_bd5ec5d5-1114-4798-bec7-1fadaaf4a7bb.png, ribbon-40_a84a7e65-c6d7-40e1-a3b7-f7ff6e2d6bc1.png

Hello Robert :

Please see the attached my submittal drawings and calculations that I submitted to the clients.
I recommended LC Engineering .Because He worked on a couple of my project ,surveying, drainage.
My client was happy

I have no responsibility about his decision or his design.He is not my engineer nor does he he work for my company.I did not even see his drainage plans nor did Isee his contract with the clients. Any arrangement and jobs done by him are the responsibility of the client who hired him not mine.
Any responsibilities for his jobs have nothing to do with me.I never include water proofing/drainage in any of my contracts and always specify that explicity.
As a result ,LC Engineering has full responsibility for any waterproofing/drainage design with contracted with the client.

Regards

Nilgun Wolpe
NY Engineering
850 S.Van Ness suite :9
San Francisco ,Ca 94110
T: 1-415-568-1270
email: nyengineering@sbcglobal.net
www.nyengineering.net

On Wednesday, January 12, 2022, 02:39:58 PM PST, Robert Wong <rwong@aliquot.com> wrote:

All, sorry, I neglected to copy all. Thanks.

Robert

ALIQUOT
Civil Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
rwong@aliquot.com | 925.476.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 94596
P 925.476.2300
F 925.476.2350

OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 94608
P 510.601.5101
F 510.601.5171

www.aliquot.com

From: Robert Wong
Sent: Monday, January 10, 2022 6:56 PM
To: NY Engineering
Cc: 221175
Subject: RE: 405 Duncan project

Hi Nilgun,

Thank you for emailing documents to me on Monday, December 27th. The documents received are as follows:

1. Geotechnical Investigation Report by Wayne Ting & Associates, dated December 8, 2021
2. Geotechnical Foundation Plan Review Letter by Wayn Ting & Associates, dated December 22, 2021
3. Site Plan & Details by NY Engineering, Drawing S-2, dated Dec 9, 2021 with a Revision date of 12/22/21
4. Cantilevered Retaining Wall Calculations by N.Y Engineering, Project Name of 405 Duncan St, 8 sheets

The S-2 Sheet is labeled as "Site Plan & Details" which I assume is a site plan specifically only to locate the wall in relationship to the property. I did not receive a S-1 drawing. I presume there will be a civil engineering site plan/drainage plan which will call out bottom and top of the retaining wall elevations at specific locations and how the drainage will be handled. In order to fully respond to your proposed design, I will need to see this site/drainage plan as well as any other drawings and designs, including those for any other improvements in the yard and/or any improvements near the retaining wall. Have your clients retained a civil engineer to provide these, and do you know when they will be available to review?

The S-2 plan sheet shows details of the retaining wall with 2 cross sections. However, there was no information on the drainage of the 405 Duncan Street yard nor any waterproofing details. Here are comments based on my review of the S-2 drawing you have provided so far:

- A drainage system that moves all surface water from the yard into the public street without entering onto other private property must be added. Based on my site observation along with this one plan sheet, the rear yard of 405 Duncan Street appears to have no existing drainage system that will move any surface water to the public street without traversing thru another private property, specifically my client's property, 1468 Sanchez Street.
- The S-2 Sheet proposes a drainage system on the outside of the grade beam. It doesn't show the system connected and a means to move the water into the public street.
- There are no details of waterproofing the 1468 Sanchez Street concrete stem/foundation, nor for the portions of the currently above-grade exterior wall above that foundation that will be trapped behind the retaining wall .
- Seepage must be prevented from entering the 1468 Sanchez Street building light well area, and retaining wall deflection must be prevented from placing pressure on the building. One possibility to address these is to install a vertical compressible material plug at the area adjacent to the light well.

- Sloping the ground adjacent to the retaining wall away from the wall is required to keep surface water from building up behind the wall and coming into contact with the 1468 Sanchez Street building.
- The retaining wall setback is called out to be 2” to 4” on your cross section. I believe it should be 4” clear from the property line/building face since it’s up against a wood frame wall.

I see in your notes that you “have no responsibility for waterproofing and drainage” and that these will be “designed by others.” Have your clients retained a licensed engineer with specific drainage system expertise to address these issues and provide designs for waterproofing and drainage, and do you know when they will be available to review?

I look forward to receiving the additional engineer-prepared design documents above, and any other additional plans, documents or revisions so that I may complete my review of the complete retaining wall redesign and revised permit application.

Robert Wong

ALIQUOT
Civil Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
rwong@aliquot.com | 925.476.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 94596
P 925.476.2300
F 925.476.2350

OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 94608
P 510.601.5101
F 510.601.5171

www.aliquot.com

From: NY Engineering [mailto:nyengineering@sbcglobal.net]
Sent: Monday, December 27, 2021 12:40 PM
To: Robert Wong
Subject: 405 Duncan project

Hello Robert :

Please see the attached

1-Strcutural design of retaining wall

2-Calculations

3-Soil report

4-approval letter form the soil engineer

Nilgun Wolpe
NY Engineering
850 S.Van Ness suite :9
San Francisco ,Ca 94110
T: 1-415-568-1270
email: nyengineering@sbcglobal.net
www.nyengineering.net

EXHIBIT L

Subject: Re: 405 Duncan project
Date: Friday, February 18, 2022 at 12:33:58 PM Pacific Standard Time
From: NY Engineering
To: Robert Wong
CC: damien.martin@SFGOV.ORG, Michael J. Kloepfer (mkloepfer1@gmail.com), Dan Cohen, sfgellman@aol.com, salorawet@aol.com, TRA, Laura Strazzo, RYAN PATTERSON ESQ (ryan@zfplaw.com), Neville.Pereira@sfgov.org, 221175, matthew.greene@SFGOV.ORG, jimmy.cheung@SFGOV.ORG
Attachments: image001.png, image002.png, logo-sm_bd5ec5d5-1114-4798-bec7-1fadaaf4a7bb.png, ribbon-40_08f7bf66-67f4-4059-a4a9-43d53c2d2abd.png

Hello Robert :

Thank you for explaining. I will also need to have a scanned copy of entire approval drawings with the City's stamp.

I submitted my drawings to you at the end of December and had comments on January 12.
You had comments regarding waterproofing and drainage. You also wanted me to submit entire structural pages. (see cover page S1) to you.
It was resubmitted entire structural drawings including S1 in January. I had no structural comments after that day.
I asked my client to hire a waterproofing /drainage engineer so that he or she might respond to your waterproofing and drainage concerns, which, again. were not, nor are they ever, included in my scope of work as outlined in all my contracts including this one for 405 Duncan St. in San Francisco.
I clearly excluded waterproofing/drainage from my structural design. My role was only designing the structural retaining wall.

I resent my submittal drawings and calculations to you on February 5th, as well as to the 405 Duncan Street owner (I also sent you the soil report and the soil approval letter at the end of December). You approved my structural design in January.
At this point you need to talk to the other engineer (L.C. Engineering) who was involved in the drainage design so that he might satisfy your comments and concerns.
Furthermore, I also submitted my engineering design to the client since I had completed my project with him as outlined in my scope of work. This marked the end of my involvement with this contract as I had by then completed my scope of work. All subsequent communications and attempts to clarify this situation have been above and beyond my contract responsibilities and I have done so on my own time in order to try to clarify this situation.

Further, I introduced you to a soil engineer as well as to LC Engineering only as a professional courtesy, but beyond those introductions, I had no coordination with either one's design on this project.

To summarize, I wasn't hired for any of the coordination on drainage /waterproofing issues nor on the soil report. My only role was designing the retaining wall. I have no control over the submittal and permit process.
Regards

Nilgun Wolpe
NY Engineering
850 S.Van Ness suite :9
San Francisco ,Ca 94110
T: 1-415-568-1270
email: nyengineering@sbcglobal.net
www.nyengineering.net

On Friday, February 18, 2022, 10:21:43 AM PST, Robert Wong <rwong@aliquot.com> wrote:

Dear Mr. Cheung and Mr. Greene:

As the civil engineer representing my clients who own adjacent property, I'm writing to express my complete surprise at the issuance of permit 202202077420 on February 7 for 405 Duncan, and request that DBI immediately suspend the permit.

As you recall, on November 18, 2021, we had a meeting on site at 405 Duncan St in response to complaint 202182941 filed by my client regarding permit 202105070002. At that meeting, Mr. Cheung confirmed that the plans submitted for 202105070002 by the property owners did not match the actual conditions in the field (as previously communicated to the owners and inspector Martin by their engineer in July 2021), and agreed with the complaint for the need for a complete set of revised drawings and a permit revision. Upon request by Mr. Greene, you'll recall it was agreed by all in attendance, including you, me, my clients and the property owners at 405 Duncan, that the dispute between the owners as to requirements for structural design, drainage, and other engineering issues should be resolved solely by designs from engineers and not by owners, namely myself and in their case Nilgun Wolpe of NY Engineering, within 45 days.

On January 12, I copied you and the owners of 405 Duncan on an email I sent to Ms. Wolpe in response to draft plans she had sent to me during the Christmas holiday on December 27, 2021. In that email, I noted several items of concern and noted missing drawings and information, and indicated that I could not complete my review without those. Those missing drawings and information were never provided to me. However, I was notified that the owners had retained Ninh Le of LCE Engineering to produce a drainage plan. I was in the middle of having discussions with Mr. Le, when I found out that this Permit had been filed and approved.

This past Wednesday, I went to DBI to review BPA No. 202202077420 and the submitted plans and noted the following:

- The drawings and permit were approved by both of you. I met with Mr. Cheung that day in person and asked him about the issuance of the permit. He said that the property owners indicated that I had reviewed and approved all of the plans, which is not the case.
- The plans I reviewed at the records office included a cover sheet hand-drawn by 405 Duncan property owner Salo Rawet, referencing more documents than I had been provided in the past, including 4 pages of drawings and 3 attachments. The only portion of the plans I had seen before were the two sheets S-1 and S-2, stamped structural drawings provided by Ms. Wolpe, which I did previously review and approve but only for structural design.
- The soils report, which I had seen previously and was submitted with the plans, did not contain the boring log, just like the copy of the report Ms. Wolpe provided to me. I had requested this boring log from the soils engineer previously but this was never provided.
- One of the attachments was a "Civil Engineer's Investigation and Report." That letter was never provided to me. Unfortunately, the records office did not have the letter, suggesting the plan checker, Mr. Cheung, might have it, but unfortunately he didn't.
- There were no civil engineering plans as I requested addressing the questions I raised on

January 10. Instead, there were two sheets labeled LA-1 and LA-2 of a landscape plan hand-drawn by 405 Duncan property owner Salo Rawet.

Needless to say, the owners of 405 Duncan did not follow the agreed upon process in applying for this permit.

While I did still review Mr. Rawet's plans at the DBI counter Wednesday, he is the property owner and not a licensed engineer that both parties had agreed would be engaged for any plans submitted to DBI. The plans do not address my concerns for surface water drainage. I also note that the submitted plans do not appear to comply with the following building codes:

- Section 1101.2.1 within Chapter 11, Storm Drain of DBI's code indicate that a roof and/or courtyard area larger than 200 square feet shall drain or be conveyed. This area is larger than 200 square feet.
- California Building Code Section 3307 and California Civil Code Section 832 addresses protection to adjoining property. There were no civil engineering plan that shows the grade elevation and proposed wall height/footing elevations. Therefore, it's not possible to determine the relationship of the proposed improvements to the existing building/foundation. I need to see a complete grading and drainage plan and a Site Plan with conventional information shown.
- Section 3307 of the DBI code for "Protection of Adjoining Property" and OSHA:
    - o Contractors performing the work at the depths shown on the structural drawings, which exceeds 5 feet, will require an OSHA permit. This was added by Mr. Cheung to the original plans for permit 202105070002, but should be added to the revised plans as well.
    - o The excavation must be shored or laid back. An engineering design for the shoring must be provided.

I would be happy to discuss this further with you if you have any additional questions.

Robert Wong

ALIQUOT
Civil Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
rwong@aliquot.com | 925.476.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 94596
P 925.476.2300
F 925.476.2350

OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 94608
P 510.601.5101
F 510.601.5171

www.aliquot.com

From: Robert Wong <rwong@aliquot.com>
Sent: Wednesday, January 12, 2022 2:40 PM
To: NY Engineering <nyengineering@sbcglobal.net>
Cc: 221175 <221175@aliquot.com>; damien.martin@SFGOV.ORG; matthew.greene@SFGOV.ORG; jimmy.cheung@SFGOV.ORG; Michael J. Kloepfer (mkloepfer1@gmail.com) <mkloepfer1@gmail.com>; dan@dancohen.com; sfgellman@aol.com; salorawet@aol.com
Subject: RE: 405 Duncan project

All, sorry, I neglected to copy all. Thanks.

Robert

ALIQUOT
Civil Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
rwong@aliquot.com | 925.476.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 94596
P 925.476.2300
F 925.476.2350

OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 94608
P 510.601.5101
F 510.601.5171

www.aliquot.com

From: Robert Wong
Sent: Monday, January 10, 2022 6:56 PM
To: NY Engineering
Cc: 221175
Subject: RE: 405 Duncan project

Hi Nilgun,

Thank you for emailing documents to me on Monday, December 27th. The documents received are as follows:

1. Geotechnical Investigation Report by Wayne Ting & Associates, dated December 8, 2021
2. Geotechnical Foundation Plan Review Letter by Wayn Ting & Associates, dated December 22, 2021
3. Site Plan & Details by NY Engineering, Drawing S-2, dated Dec 9, 2021 with a Revision date of 12/22/21
4. Cantilevered Retaining Wall Calculations by N.Y Engineering, Project Name of 405 Duncan St, 8 sheets

The S-2 Sheet is labeled as “Site Plan & Details” which I assume is a site plan specifically only to locate the wall in relationship to the property. I did not receive a S-1 drawing. I presume there will be a civil engineering site plan/drainage plan which will call out bottom and top of the retaining wall elevations at specific locations and how the drainage will be handled. In order to fully respond to your proposed design, I will need to see this site/drainage plan as well as any other drawings and designs, including those for any other improvements in the yard and/or any improvements near the retaining wall. Have your clients retained a civil engineer to provide these, and do you know when they will be available to review?

The S-2 plan sheet shows details of the retaining wall with 2 cross sections. However, there was no information on the drainage of the 405 Duncan Street yard nor any waterproofing details. Here are comments based on my review of the S-2 drawing you have provided so far:

- A drainage system that moves all surface water from the yard into the public street without entering onto other private property must be added. Based on my site observation along with this one plan sheet, the rear yard of 405 Duncan Street appears to have no existing drainage system that will move any surface water to the public street without traversing thru another private property, specifically my client’s property, 1468 Sanchez Street.
- The S-2 Sheet proposes a drainage system on the outside of the grade beam. It doesn’t show the system connected and a means to move the water into the public street.
- There are no details of waterproofing the 1468 Sanchez Street concrete stem/foundation, nor for the portions of the currently above-grade exterior wall above that foundation that will be trapped behind the retaining wall .
- Seepage must be prevented from entering the 1468 Sanchez Street building light well area, and retaining wall deflection must be prevented from placing pressure on the building. One possibility to address these is to install a vertical compressible material plug at the area adjacent to the light well.
- Sloping the ground adjacent to the retaining wall away from the wall is required to keep surface water from building up behind the wall and coming into contact with the 1468 Sanchez Street building.
- The retaining wall setback is called out to be 2” to 4” on your cross section. I believe it should be 4” clear from the property line/building face since it’s up against a wood frame wall.

I see in your notes that you “have no responsibility for waterproofing and drainage” and that these will be “designed by others.” Have your clients retained a licensed engineer with specific drainage system expertise to address these issues and provide designs for waterproofing and drainage, and do you know when they will be available to review?

I look forward to receiving the additional engineer-prepared design documents above, and any other additional plans, documents or revisions so that I may complete my review of the complete retaining wall redesign and revised permit application.

Robert Wong

ALIQUOT
Civil Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
rwong@aliquot.com | 925.476.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 94596
P 925.476.2300
F 925.476.2350

OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 94608
P 510.601.5101
F 510.601.5171

www.aliquot.com

From: NY Engineering [mailto:nyengineering@sbcglobal.net]
Sent: Monday, December 27, 2021 12:40 PM
To: Robert Wong
Subject: 405 Duncan project

Hello Robert :

Please see the attached

1-Strcutural design of retaining wall

2-Calculations

3-Soil report

4-approval letter form the soil engineer

Nilgun Wolpe
NY Engineering
850 S.Van Ness suite :9
San Francisco ,Ca 94110
T: 1-415-568-1270
email: nyengineering@sbcglobal.net
www.nyengineering.net

EXHIBIT M

Subject: RE: 405 Duncan project
Date: Friday, February 18, 2022 at 10:21:42 AM Pacific Standard Time
From: Robert Wong
To: matthew.greene@SFGOV.ORG, jimmy.cheung@SFGOV.ORG
CC: damien.martin@SFGOV.ORG, NY Engineering, Michael J. Kloepfer (mkloepfer1@gmail.com), Dan Cohen, sfgellman@aol.com, salorawet@aol.com, TRA, Laura Strazzo, RYAN PATTERSON ESQ (ryan@zfplaw.com), Neville.Pereira@sfgov.org, 221175
Attachments: image001.png, image002.png, logo-sm_bd5ec5d5-1114-4798-bec7-1fadaaf4a7bb.png, ribbon-40_08f7bf66-67f4-4059-a4a9-43d53c2d2abd.png

Dear Mr. Cheung and Mr. Greene:

As the civil engineer representing my clients who own adjacent property, I'm writing to express my complete surprise at the issuance of permit 202202077420 on February 7 for 405 Duncan, and request that DBI immediately suspend the permit.

As you recall, on November 18, 2021, we had a meeting on site at 405 Duncan St in response to complaint 202182941 filed by my client regarding permit 202105070002. At that meeting, Mr. Cheung confirmed that the plans submitted for 202105070002 by the property owners did not match the actual conditions in the field (as previously communicated to the owners and inspector Martin by their engineer in July 2021), and agreed with the complaint for the need for a complete set of revised drawings and a permit revision. Upon request by Mr. Greene, you'll recall it was agreed by all in attendance, including you, me, my clients and the property owners at 405 Duncan, that the dispute between the owners as to requirements for structural design, drainage, and other engineering issues should be resolved solely by designs from engineers and not by owners, namely myself and in their case Nilgun Wolpe of NY Engineering, within 45 days.

On January 12, I copied you and the owners of 405 Duncan on an email I sent to Ms. Wolpe in response to draft plans she had sent to me during the Christmas holiday on December 27, 2021. In that email, I noted several items of concern and noted missing drawings and information, and indicated that I could not complete my review without those. Those missing drawings and information were never provided to me. However, I was notified that the owners had retained Ninh Le of LCE Engineering to produce a drainage plan. I was in the middle of having discussions with Mr. Le, when I found out that this Permit had been filed and approved.

This past Wednesday, I went to DBI to review BPA No. 202202077420 and the submitted plans and noted the following:

- The drawings and permit were approved by both of you. I met with Mr. Cheung that day in person and asked him about the issuance of the permit. He said that the property owners indicated that I had reviewed and approved all of the plans, which is not the case.
- The plans I reviewed at the records office included a cover sheet hand-drawn by 405 Duncan property owner Salo Rawet, referencing more documents than I had been provided in the past, including 4 pages of drawings and 3 attachments. The only portion of the plans I had seen before were the two sheets S-1 and S-2, stamped structural drawings provided by Ms. Wolpe, which I did previously review and approve but only for structural design.
- The soils report, which I had seen previously and was submitted with the plans, did not contain the boring log, just like the copy of the report Ms. Wolpe provided to me. I had requested this boring log from the soils engineer previously but this was never provided.
- One of the attachments was a "Civil Engineer's Investigation and Report." That letter was never

provided to me. Unfortunately, the records office did not have the letter, suggesting the plan checker, Mr. Cheung, might have it, but unfortunately he didn't.
- There were no civil engineering plans as I requested addressing the questions I raised on January 10. Instead, there were two sheets labeled LA-1 and LA-2 of a landscape plan hand-drawn by 405 Duncan property owner Salo Rawet.

Needless to say, the owners of 405 Duncan did not follow the agreed upon process in applying for this permit.

While I did still review Mr. Rawet's plans at the DBI counter Wednesday, he is the property owner and not a licensed engineer that both parties had agreed would be engaged for any plans submitted to DBI. The plans do not address my concerns for surface water drainage. I also note that the submitted plans do not appear to comply with the following building codes:

- Section 1101.2.1 within Chapter 11, Storm Drain of DBI's code indicate that a roof and/or courtyard area larger than 200 square feet shall drain or be conveyed. This area is larger than 200 square feet.
- California Building Code Section 3307 and California Civil Code Section 832 addresses protection to adjoining property. There were no civil engineering plan that shows the grade elevation and proposed wall height/footing elevations. Therefore, it's not possible to determine the relationship of the proposed improvements to the existing building/foundation. I need to see a complete grading and drainage plan and a Site Plan with conventional information shown.
- Section 3307 of the DBI code for "Protection of Adjoining Property" and OSHA:
  - Contractors performing the work at the depths shown on the structural drawings, which exceeds 5 feet, will require an OSHA permit. This was added by Mr. Cheung to the original plans for permit 202105070002, but should be added to the revised plans as well.
  - The excavation must be shored or laid back. An engineering design for the shoring must be provided.

I would be happy to discuss this further with you if you have any additional questions.

Robert Wong

ALIQUOT
Civil Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
rwong@aliquot.com | 925.476.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 94596
P 925.476.2300
F 925.476.2350

OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 94608
P 510.601.5101
F 510.601.5171

www.aliquot.com

From: Robert Wong <rwong@aliquot.com>
Sent: Wednesday, January 12, 2022 2:40 PM
To: NY Engineering <nyengineering@sbcglobal.net>
Cc: 221175 <221175@aliquot.com>; damien.martin@SFGOV.ORG; matthew.greene@SFGOV.ORG; jimmy.cheung@SFGOV.ORG; Michael J. Kloepfer (mkloepfer1@gmail.com) <mkloepfer1@gmail.com>; dan@dancohen.com; sfgellman@aol.com; salorawet@aol.com
Subject: RE: 405 Duncan project

All, sorry, I neglected to copy all. Thanks.

Robert

ALIQUOT
Civil Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
rwong@aliquot.com | 925.476.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 94596
P 925.476.2300
F 925.476.2350

OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 94608
P 510.601.5101
F 510.601.5171

www.aliquot.com

From: Robert Wong
Sent: Monday, January 10, 2022 6:56 PM
To: NY Engineering
Cc: 221175
Subject: RE: 405 Duncan project

Hi Nilgun,

Thank you for emailing documents to me on Monday, December 27th. The documents received are as follows:

1. Geotechnical Investigation Report by Wayne Ting & Associates, dated December 8, 2021
2. Geotechnical Foundation Plan Review Letter by Wayn Ting & Associates, dated December 22, 2021
3. Site Plan & Details by NY Engineering, Drawing S-2, dated Dec 9, 2021 with a Revision date of 12/22/21
4. Cantilevered Retaining Wall Calculations by N.Y Engineering, Project Name of 405 Duncan St, 8 sheets

The S-2 Sheet is labeled as "Site Plan & Details" which I assume is a site plan specifically only to locate the wall in relationship to the property. I did not receive a S-1 drawing. I presume there will be a civil engineering site plan/drainage plan which will call out bottom and top of the retaining wall elevations at specific locations and how the drainage will be handled. In order to fully respond to your proposed design, I will need to see this site/drainage plan as well as any other drawings and designs, including those for any other improvements in the yard and/or any improvements near the retaining wall. Have your clients retained a civil engineer to provide these, and do you know when they will be available to review?

The S-2 plan sheet shows details of the retaining wall with 2 cross sections. However, there was no information on the drainage of the 405 Duncan Street yard nor any waterproofing details. Here are comments based on my review of the S-2 drawing you have provided so far:

- A drainage system that moves all surface water from the yard into the public street without entering onto other private property must be added. Based on my site observation along with this one plan sheet, the rear yard of 405 Duncan Street appears to have no existing drainage system that will move any surface water to the public street without traversing thru another private property, specifically my client's property, 1468 Sanchez Street.
- The S-2 Sheet proposes a drainage system on the outside of the grade beam. It doesn't show the system connected and a means to move the water into the public street.
- There are no details of waterproofing the 1468 Sanchez Street concrete stem/foundation, nor for the portions of the currently above-grade exterior wall above that foundation that will be trapped behind the retaining wall .
- Seepage must be prevented from entering the 1468 Sanchez Street building light well area, and retaining wall deflection must be prevented from placing pressure on the building. One possibility to address these is to install a vertical

compressible material plug at the area adjacent to the light well.

- Sloping the ground adjacent to the retaining wall away from the wall is required to keep surface water from building up behind the wall and coming into contact with the 1468 Sanchez Street building.
- The retaining wall setback is called out to be 2" to 4" on your cross section. I believe it should be 4" clear from the property line/building face since it's up against a wood frame wall.

I see in your notes that you "have no responsibility for waterproofing and drainage" and that these will be "designed by others." Have your clients retained a licensed engineer with specific drainage system expertise to address these issues and provide designs for waterproofing and drainage, and do you know when they will be available to review?

I look forward to receiving the additional engineer-prepared design documents above, and any other additional plans, documents or revisions so that I may complete my review of the complete retaining wall redesign and revised permit application.

Robert Wong

ALIQUOT
Civil Engineers
Traffic Engineers
Surveyors
40th ANNIVERSARY 1980-2020

Robert C. Wong, P.E. | Principal
rwong@aliquot.com | 925.476.2330

WALNUT CREEK
1390 S. Main St. Ste. 310
Walnut Creek, CA 94596
P 925.476.2300
F 925.476.2350

OAKLAND
953 W. MacArthur Blvd. Ste. 11
Oakland, CA 94608
P 510.601.5101
F 510.601.5171

www.aliquot.com

From: NY Engineering [mailto:nyengineering@sbcglobal.net]
Sent: Monday, December 27, 2021 12:40 PM
To: Robert Wong
Subject: 405 Duncan project

Hello Robert :
Please see the attached
1-Strcutural design of retaining wall
2-Calculations
3-Soil report
4-approval letter form the soil engineer

Nilgun Wolpe
NY Engineering
850 S.Van Ness suite :9
San Francisco ,Ca 94110
T: 1-415-568-1270
email: nyengineering@sbcglobal.net
www.nyengineering.net

EXHIBIT N

EDDY T. LAU
GEOTECHNICAL ENGINEER

P O BOX 24874, OAKLAND, CALIFORNIA 94623-1874
TELEPHONE: (415) 505-5538

March 10, 2022

Zacks Freedman & Patterson PC
601 Montgomery Street, Suite 400
San Francisco, California 94111-2607

Attention: Laura Strazzo, ESQ.

Ladies and Gentlemen:

Geotechnical Consultation
Drainage Issue at 406 Duncan Street
1468 Sanchez Street
San Francisco, California

As requested, we are writing to presentour opinion in connection with the potential drainage issueat 405 Duncan Street, that would potentially affect the adjacent propertyat1468 Sanchez Street in San Francisco, California.

We visited 1468 Sanchez Street on March 7, 2022. We were also provided with a geotechnical report prepared by Wayne Ting & Associates, Inc., entitled, "Geotechnical Investigation, Proposed Site Retaining Wall, 405 Duncan Street, San Francisco, California," and dated December 8, 2021, (Project No. 5984).

Based on our review of the subsurface soil conditions encountered in the Boring 1, as described in the Ting's report, it is our opinion that the near-surface soils of medium brown sandy clay are relatively impermeable, and are not free draining.

Our services have been performed with the usual thoroughness and competence of the engineering profession. No other warranty or representation, whether expressed or implied, is included or intended in our proposal, contract or report.

If you have any questions or require additional information, please contact us.

Yours very truly,

Eddy T. Lau, P.E.
Reg. Civil Engineer 019897
Reg. Geotechnical Engineer 506
Expiration 09/30/2023

EXHIBIT O

405-411 Duncan Property
Faulty Grade Area 1
9/11/20
Conditions Prior to Excavation

WEST

1468 Sanchez St

Vantage B

Faulty Grade Area 1

Soil Level

Roots/Water/ Rats Entry Point 1 (below soil)

Vantage A

405 -411 Duncan St

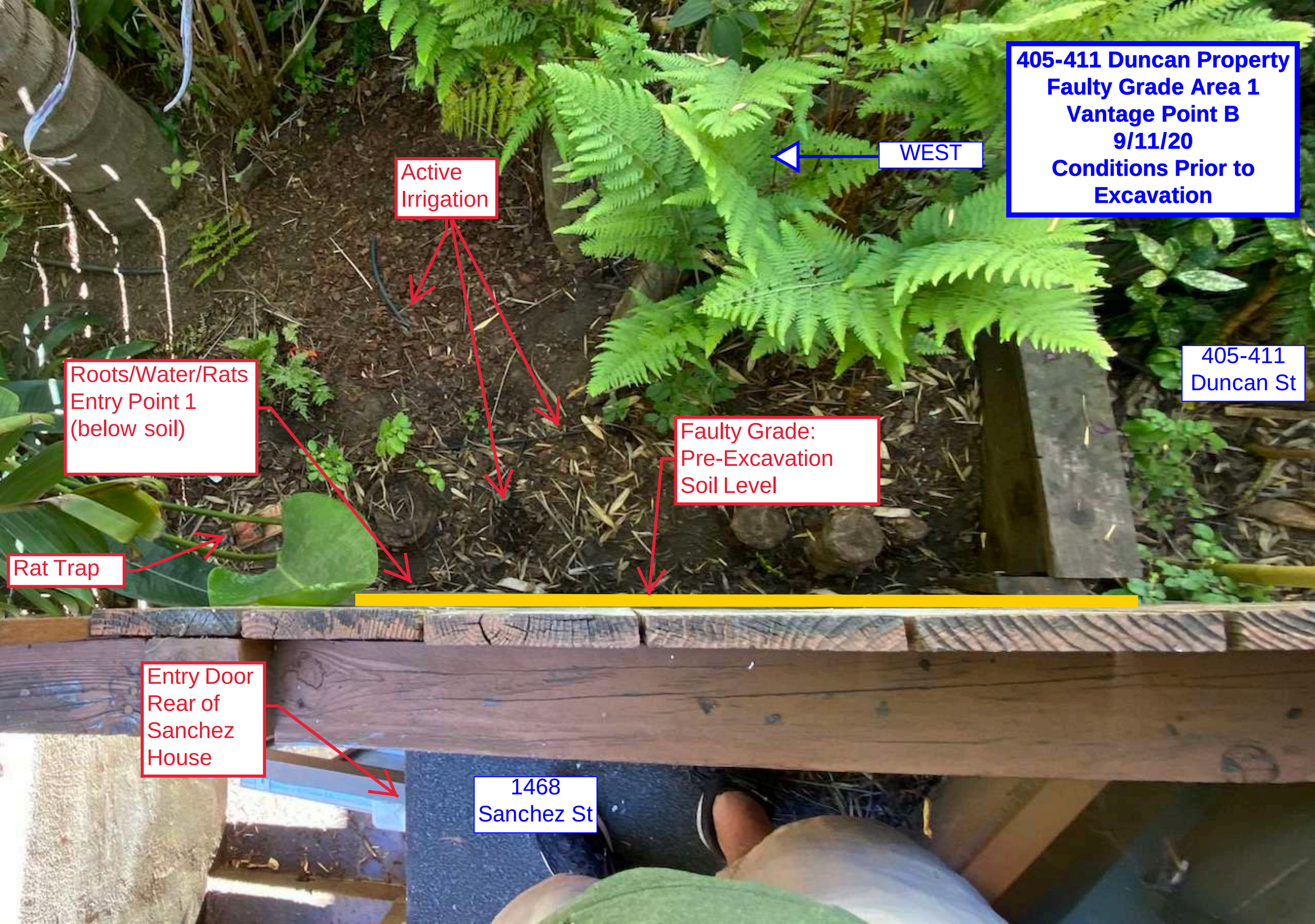
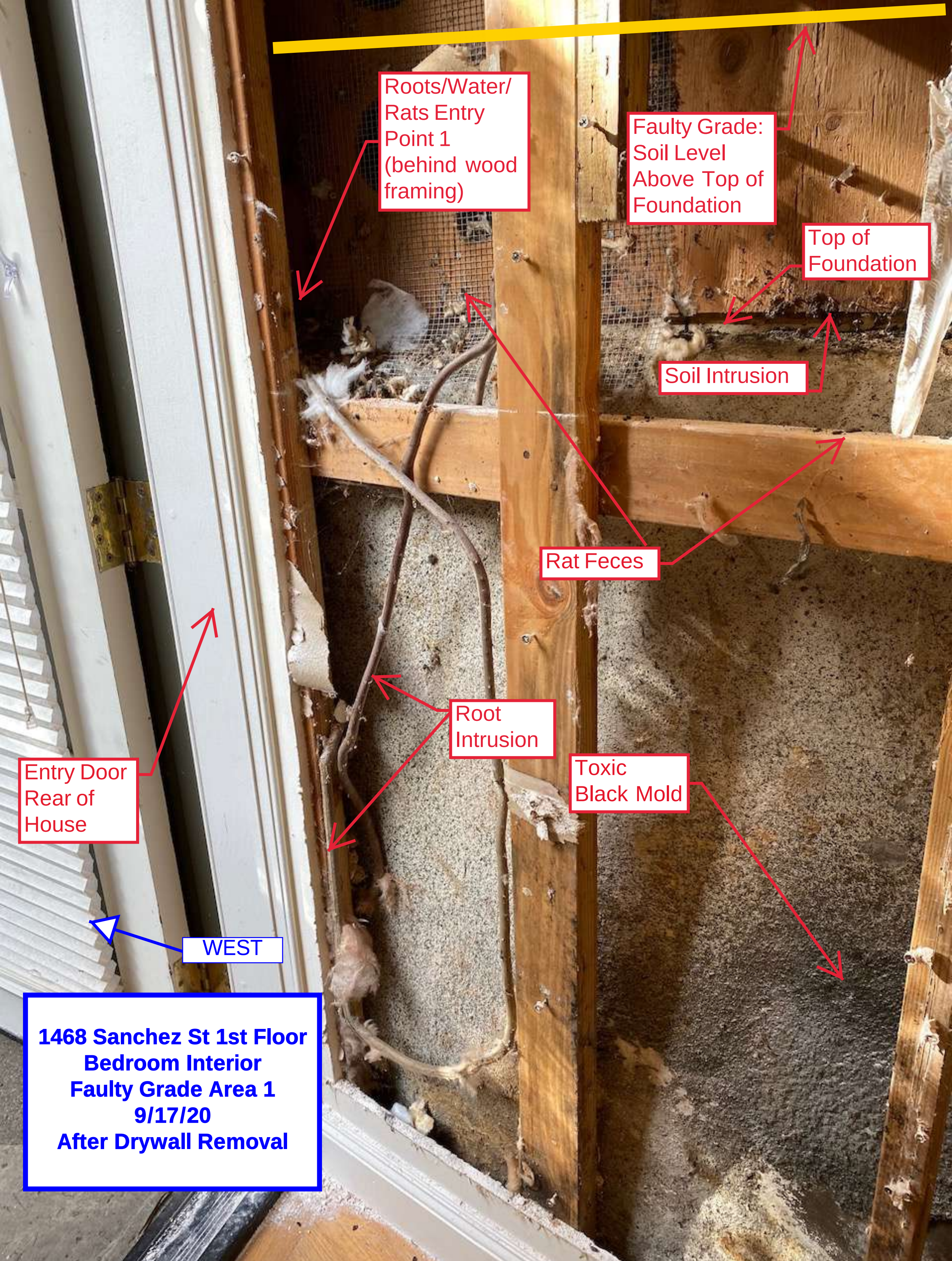
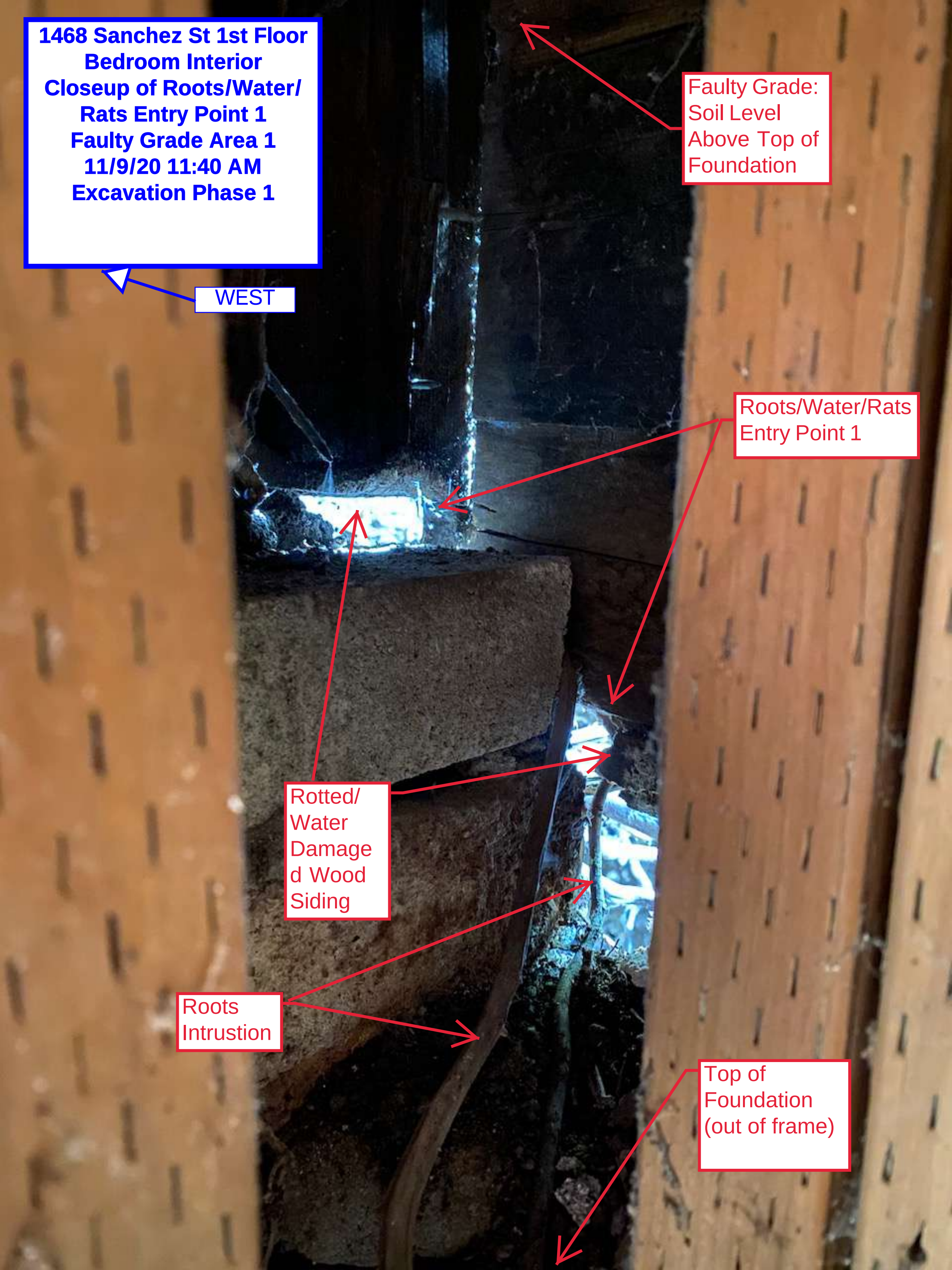

405-411 Duncan Property
Faulty Grade Area 1
Vantage Point B
9/11/20
Conditions Prior to Excavation
WEST
Active Irrigation
Roots/Water/Rats Entry Point 1 (below soil)
Faulty Grade: Pre-Excavation Soil Level
405-411 Duncan St
Rat Trap
Entry Door Rear of Sanchez House
1468 Sanchez St

EXHIBIT P


Roots/Water/
Rats Entry
Point 1
(behind wood
framing)
Faulty Grade:
Soil Level
Above Top of
Foundation
Top of
Foundation
Soil Intrusion
Rat Feces
Root
Intrusion
Toxic
Black Mold
Entry Door
Rear of
House
WEST
1468 Sanchez St 1st Floor
Bedroom Interior
Faulty Grade Area 1
9/17/20
After Drywall Removal

1468 Sanchez 1st Floor Bedroom Interior Faulty Grade Area 1 10/2/20

After Plywood and Partial Framing Removal


1468 Sanchez St 1st Floor
Bedroom Interior
Closeup of Roots/Water/
Rats Entry Point 1
Faulty Grade Area 1
11/9/20 11:40 AM
Excavation Phase 1
WEST
Faulty Grade: Soil Level Above Top of Foundation
Roots/Water/Rats Entry Point 1
Rotted/ Water Damage d Wood Siding
Roots Intrustion
Top of Foundation (out of frame)

RYAN J. PATTERSON (SBN 277971)
LAURA STRAZZO (SBN 312593)
ZACKS, FREEDMAN & PATTERSON, PC
601 Montgomery Street, Suite 400
San Francisco, CA 94111
Tel: (415) 956-8100
Fax: (415) 288-9755
ryan@zfplaw.com
laura@zfplaw.com

Attorneys for Appellant,
Dan Cohen

SAN FRANCISCO BOARD OF APPEALS

DAN COHEN

Appellants,

v.

SAN FRANCISCO DEPARTMENT OF BUILDING INSPECTION

Respondent.

SALO RAWET,

Permit Holder.

DECLARATION OF ROBERT WONG IN SUPPORT OF APPELLANT'S BRIEF

BPA No.: 202202077420
Subject Address: 405 Duncan Street

Appeal No. 22-008
Date: March 30, 2022
Time: 5:00 p.m.

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

I, Robert Wong, declare as follows:

1. Unless otherwise stated, I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.

2. I am a licensed civil engineer with over 30 years of experience. During this time, I have served as Principal-in-Charge and Project Manager for a broad range of public and private projects across the Bay Area.

3. I have been asked by the Appellant to provide analysis and recommendations regarding Permit Holder's proposed retaining wall.

4. Attached hereto as **Exhibit A** is a true and correct copy of my report regarding 405 Duncan Street, and the contents of my report are true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this was executed on March 10, 2022.

Robert Wong

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

ZACKS, FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

EXHIBIT A

ALIQUOT

March 10, 2022

Mr. Matthew Greene
Department of Building Inspection
49 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103

Dear Mr. Greene

RE: 405 Duncan St, San Francisco, Responses to Ninh M. Le Comments

On January 12, 2022 I sent a response to Nilgun Wolpe, the structural engineer for 405 Duncan St, copying you, Jimmy Cheung, Damien Martin, and the property owners indicating my concerns, issues, and missing information and drawings needed for me to complete my evaluation as agreed with DBI on November 18, 2021. I had phone conversations with Ninh Le of LC Enginering about some of my January 12 points, but nothing was agreed upon and I have yet to receive a response to that email fully addressing my concerns and requests.

As I reported to you in my email to you and Mr. Cheung on February 18, 2022, on February 15, 2022 I was very surprised to learn that a permit revision was issued on February 7, 2022. After visiting the DBI records office on February 16, 2022 and also speaking with plan checker Jimmy Cheung, I learned that the Duncan property owners had submitted a permit application including owner-prepared drawings and documents that I had never seen, and that the owners represented to DBI that I had approved them, which was not the case. One of those documents was a "Civil Engineer's Investigation and Report" that was never provided to me and was not available at DBI for review.

Yesterday, on March 9, the eve of our appeal brief due date, I obtained a copy of that civil engineering report. It was a letter from Mr. Le to the Duncan property owners dated February 4, 2022, responding to some of the issues in my January 12 email but never provided to me. The letter did not address all of my concerns and did not include the civil engineering designs and drawings. This letter is my response to the limited responses provided in Mr. Le's February 4th letter.

Most importantly, the fundamental premise and conclusion that a drain isn't needed is flawed; Le made a single site visit, did no actual performed calculations or analysis, did not account for many factors including the fact that the soil on the property is sandy clay that is impermeable and cannot serve as percolating surface water, and does not address San Francisco DBI Plumbing Code, Chapter 11 Storm Drain, which addresses roof and yard runoffs, and requires that a pipe is necessary to route surface water to Duncan Street.

Below I respond point-by-point to Mr. Le's letter.

Comment No. 2 - The S-2 Sheet proposes a drainage system on the outside of the grade beam. It doesn't show the system connected and a means to move the water into the public street.

> **N. Le Response –** Recommend that the drainage system be removed from the plan. There is no need for this drainage system since the area is too small for any meaningful surface water contribution. The owners of 1468 Sanchez Street should install a drainage system within the building light well area to collect and remove rainwater from this area.

Aliquot Associates, Inc. | E-mail: info@aliquot.com | Telephone: (925) 476-2300 | Fax: (925) 476-2350
WALNUT CREEK 1390 S. Main Street, Suite 310 | Walnut Creek, CA 94596
OAKLAND 953 West MacArthur Blvd. Suite 11 | Oakland, CA 94608

R. Wong Response – In addition to the comments already made about the drain requirement, it is not my clients' responsibility to install drainage to remove roof and yard runoffs from the Duncan property. Rather, according to San Francisco DBI plumbing code Chapter 11, Storm Drain the Duncan property must move and convey all surface water to the public street without traversing thru another private property, specifically my client's property, 1468 Sanchez Street. If a proper area drain is installed within the Duncan property yard, a drainage line can be extended to this strip.

Comment No. 1 - A drainage system that moves all surface water from the yard into the public street without entering onto other private property must be added. Based on my site observation along with this one plan sheet, the rear yard of 405 Duncan Street appears to have no existing drainage system that will move any surface water to the public street without traversing thru another private property, specifically my client's property, 1468 Sanchez Street.

N. Le Response – Recommend that the top of the proposed retaining wall be set at a minimum of 4" higher than the highest adjacent grade and the rear yard lower pad be graded a minimum of 2% for 10 ft away from the retaining wall and house at 405 Duncan Street.

R. Wong Response – Mr. Le's February 4, 2022 response to my January 10, 2022 comment did not adequately address how the drainage was going to be handled to avoid impacting the property at 1468 Sanchez Street. Sloping the adjacent ground away from the retaining wall for 10' only provides for 0.2' of retention. The additional 4" (033) added height to the wall would then provide for a total of 0.53' of retention. No information was provided on how the design will handle rain water that sheet flows off of the roof onto this yard area and the rain water that lands directly onto this area. If the homeowners intend to treat their yard area as an infiltration area, then supporting information is needed on how the existing soil can percolate the anticipated amount of rain water. Justification should be provided for not installing an overflow system when the rain amount exceeds the percolation rate. Further, the Ducan street property owner's soils report points out that the " soils encountered at the site consisted of medium brown sandy clay, firm" and our geotechnical engineer also reviewed the soil at this location, confirming it was sandy clay and determined that it doesn't have the ability to properly serve as percolating surface drainagae.

The structural plans call out for an 8" lip on the wall which is more customary and better than the 4" recommended in the Le response.

It is common and sound engineering practice to install overflow drains when designing an infiltration system. There's no engineering reason why this wouldn't be a requirement on this particular situation. Due to the fact that the Duncan yard is slightly lower than the street gutter, a sump pump would most likely be required. Modern day pumps are reliable and cost effective. When the yard receives more rain water than it can evaporate from the roof and yard area, the water will flood the Sanchez and the Duncan lower floor.

Comment No. 3 - There are no details of waterproofing the 1468 Sanchez Street concrete stem/foundation, nor for the portions of the currently above-grade exterior wall above that foundation that will be trapped behind the retaining wall.

N. Le Response – It is the responsibility of the owners of 1468 Sanchez Street to waterproof their house.

R. Wong Response – this item is fine as long as no additional Sanchez foundation is exposed to moisture.

Comment No. 4 - Seepage must be prevented from entering the 1468 Sanchez Street building light well area and retaining wall deflection must be prevented from placing pressure on the building. One possibility to address these is to install a vertical compressible material plug at the area adjacent to the light well.

N. Le Response – See response to comment no. 2 regarding seepage.

R. Wong Response – See 2 and 3.

Comment No. 5 - Sloping the ground adjacent to the retaining wall away from the wall is required to keep surface water from building up behind the wall and coming into contact with the 1468 Sanchez Street building.

N. Le Response – See response to comment no. 1

R. Wong Response – no comment.

Comment No. 6 - The retaining wall setback is called out to be 2" to 4" on your cross section. I believe it should be 4" clear from the property line/building face since it's up against a wood frame wall.

N. Le Response – Recommend 4" setback from property line to retaining wall face.

R. Wong Response – no comment.

If you have any questions regarding the above response, please feel free to call me.

Sincerely,

Robert Wong, P.E.
RCE No. 43748

BRIEF SUBMITTED BY THE PERMIT HOLDER(S)

g3mh
GOLDSTEIN, GELLMAN, MELBOSTAD, HARRIS & McSPARRAN LLP
ATTORNEYS AT LAW
1388 SUTTER STREET
SUITE 1000
SAN FRANCISCO
CALIFORNIA 94109
(415) 673-5600 TEL
(415) 673-5606 FAX
www.g3mh.com

March 24, 2022

Via E-mail
President Rick Swig, President
Board of Permit Appeals
49 South Van Ness Ave. Suite 1475
San Francisco CA 94103

Re: Appeal No. 22-008 at 405 Duncan Street: Appeal of Permit to Create a Retaining Wall

Dear President Swig and Board Members,

We represent Salo Rawet, the owner of the 4-unit building at 405 Duncan Street ("Duncan Property"). This building and Appellant Cohen's adjacent single-family residence at 1468 Sanchez Street ("Sanchez Property") were constructed shortly after the 1906 earthquake and fire. According to records, the building on the Sanchez Property was built after the building on the Duncan Property. Its construction required the excavation of the hill which slopes down to Sanchez Street so that the home with its underground garage could be built into the hillside and not step up at different levels of the hill. The foundation of that home was built flush against soil in the rear yard of the Duncan Property. Prior to the Appellant's taking title in 2004, the Sanchez Property garage floor was further lowered to provide sufficient headroom for a guest room at the rear of the building. The existing foundation was not replaced, and the foundation of over a hundred years remains.

In February of 2020, Appellant told our client that he was remodeling his Sanchez Street property to create a master bedroom suite in the partially underground former garage space. As part of his remodel, Appellant demolished a wood deck in his rear yard that had been a harbor to rats and

vermin for many years. Mr. Cohen told my client that he had discovered evidence of water and root entry into his garage along the foundation wall, at which time Appellant requested to be allowed to excavate a twenty-foot long trench at the rear of the Duncan Property's backyard to expose his old foundation to make any needed repairs, and to add waterproofing as needed. My client agreed, and Appellant brought in his own workers to dig the trench, but without obtaining a permit for that. While digging the trench, Appellant discovered that a small portion of his siding had been submerged for many years by my client's rear yard soil and needed repair as a result. He also discovered a couple of aerial roots that found their way into the foundation wall in spite of my client's continuous maintenance of his rear yard, something he does conscientiously due to his career in Landscape Architecture.

Appellant asked to dig the trench deeper and longer to expose his entire foundation, and asked for a wider trench for worker safety (see **Exhibit A**). My client gave his permission, notwithstanding it would remove the rear yard plantings that my client had created over 20 years. A common feature of both of these granted requests was that (1) it provided Appellant access to create a moisture barrier on his newly exposed foundation (see **Exhibit B**) and (2) it would have made it possible for Appellant to create a drain under his Sanchez Street home, in order to channel any collected water under the old foundation to the sewer lateral servicing the Sanchez Property. **California Plumbing Code Section 1101.6 requires an owner to place a drain under his or her foundation if there is access to the foundation**.[1] Obviously a state law cannot force an adjacent owner to place a drain on

[1] **1101.6 Subsoil Drains**

Subsoil drains shall be provided around the perimeter of buildings having basements, cellars, crawl spaces, or floors below grade. Such subsoil drains shall be permitted to be positioned inside or outside of the footing, shall be of perforated or open-jointed approved drain tile or pipe, not less than 3 inches (80 mm) in diameter, and shall be laid in gravel, slag, crushed rock, approved $^{3}/_{4}$ of an inch (19.1 mm)

an adjacent property where no construction activity is proposed there; thus this Section 1101.6 must mean that the drain goes under the foundation of the property being improved.

Appellant did add new waterproofing, but decided not to create a drain under his foundation as required by Section 1101.6. Instead, Appellant asked my client to accommodate a French drain in the rear several feet of my client's property, to channel water under the Sanchez Street building and out to Sanchez Street. Over time, however, that request morphed into a demand to separate the two properties by a two-foot-wide swath of gravel, which would keep the soil of the Duncan Property far from the ageing foundation of the Sanchez Property (and would create more of an open space so that Appellant could gain more light to his new side yard bedroom windows). Appellant's position then morphed again, this time becoming a request that the water should drain under my client's property and not Appellant's property, all the way to Duncan Street. Instead, my client proposed a concrete retaining wall several inches back from the property line, which would act as a moisture barrier and which would make Appellant's foundation more stable. However, Appellant rejected that, demanding instead an 8-inch thick concrete retaining wall ***plus*** a two-foot gravel moat along the joint property line, swallowing up 50 square feet of the Duncan Property's rear yard.

My client agreed to proceed with the retaining wall alone, and DBI issued a permit for a concrete retaining wall from three to five feet in depth ("First Permit") (see **Exhibit C**). Before the wall could be built, Appellant informed my client of a secondary invisible foundation below his visible foundation and asked that the retaining wall be redesigned as a result. Once again, my client agreed, and filed for a permit (with amended plans) for a deeper retaining wall (the "Second Permit"). It shows show a concrete wall supported by 10-foot concrete piers at the rear of my client's backyard.

---

crushed, recycled glass aggregate, or other approved porous material with not less than 4 inches (102 mm) surrounding the pipe. Filter media shall be provided for exterior subsoil piping.

After it was issued, Appellant then expressed concern that the stronger retaining wall was insufficient without a two-foot gravel separation and drainage system that conveyed water across my client's lot to Duncan Street. My client's engineers and DBI decided that such a moat and drainage system was not required by Code and was not necessary as a practical matter.

Before my client was even able to file for the Second Permit, Appellant filed a formal complaint with DBI, claiming that the trench was endangering his property; it neglected to say in any form that Appellant *himself* had excavated the trench. Damien Martin of DBI processed the complaint, and after a meeting with both parties on site, Mr. Martin decided that the situation needed the involvement of his superiors at DBI, and a second meeting was scheduled. This meeting was held with Appellant and his civil engineer, chief DBI Inspector Matt Greene, and DBI Plan Checker Jimmy Cheung (who had approved the First Permit and would subsequently approve the Second Permit).

Inspector Matt Greene asked both neighbors to try to have their respective engineers review and agree upon the structural plans for the retaining wall. My client had his structural engineer, Nilgun Wolpe, revise her design for the retaining wall and she sent it to Appellant's civil engineer, David Wong, for his review. Mr. Wong approved the new design without changes, but still insisted that an engineered drainage system be installed on my client's property. Mr. Wong suggested that my client retain a civil engineer for this purpose. My client responded by hiring Ninh Le, a licensed civil engineer, who visited the site and issued a written report (**Exhibit D**) stating that an engineered drainage system was ***not*** required to protect the Sanchez Property, and that my client's revised plan, which included a 2% drainage slope, was completely satisfactory. Mr. Le spoke with Mr. Wong on two or more occasions but was unable to persuade him to drop his demand for an engineered drainage system.

My client filed for the Second Permit on February 7, 2022. My client met with Matt Greene, who referred him to Plan Checker Jimmy Cheung, who approved the changes without an engineered drainage system. *When DBI did not order my client to install the costly drainage system, Appellant appealed the Second Permit. The Second Permit is now before this Board.*[2]

Appellant no longer simply requests a French drain - he demands that my client create and pay for an engineered drainage system with an underground sump pump installed to pump water away from the joint property line, underneath my client's backyard, then through my client's building, all the way to Duncan Street. My client estimates the cost of that to be roughly $25,000 and it will involve further destruction of his yard and continued disruption to his tenants. My client's costs to date (including reports from three different engineers) have been about $13,500, excluding attorney's fees.

At page 3 of his brief, Appellant states that even my client's engineer Nilgun Wolpe recommended that a drainage system be built at the rear of my client's lot. To the contrary, Ms. Wolpe consistently recommended that my client hire an expert in drainage matters, stating she had "no experience in drainage matters." It is true that Ms. Wolpe vaguely recommended drainage of some kind, but Appellant misconstrues her statement as a recommendation from her that there be an engineered drainage system to lie entirely on my client's property. She was not that specific, as she mentioned the issue was beyond her expertise. That kind of system is not required by City code and is not custom and practice of the industry. Nevertheless, my client took Ms. Wolpe's advice to hire a

[2] It is ironic that Appellant has appealed the permit our client has obtained wholly for Appellant's benefit.

soils/water engineer and a civil engineer, and both advised (see **Exhibit E**) that no engineered drainage system needs to be built on my client's property.

These experts and the Building Department have (amongst them all) listed many reasons why no engineered drainage system need be created on my client's lot: (1) the new concrete retaining wall will hold back water from draining onto Appellant's land; (2) water would have to travel vertically below the underground portion of that new retaining wall and then move horizontally toward Appellant's lot, and then pass through the vertical waterproof membrane that Appellant has installed on his foundation; (3) my client's approved drainage detail (page 4 of **Exhibit C**) maintains a 2% grade in his backyard to drain water away from the retaining wall; (4) a portion of my client's rear yard adjacent to Appellant's home is a gravel field with soil below to disperse water; (5) according to our geotechnical expert (see **Exhibit F**) the Duncan Street property's soil is permeable and thus absorbs the rain and does not (as alleged by Appellant's attorney) create a stagnant "bathtub" of water. This lack of stagnant water also becomes more obvious when one considers the fact that Duncan Street hill slopes down to Sanchez, and thus water which travels across my client's backyard will travel down toward Sanchez before it travels sideways across the hill into Appellant's property; and (6) my client's backyard area "is too small for any meaningful surface water contribution," according to Wayne Ting, PE.

As a result of the six features mentioned above, it is not surprising that DBI issued both the First Permit and the Second Permit without plans showing an engineered drainage system. Please note that Plan Checker Jimmy Cheung issued the Second Permit after visiting the site with Senior Building Inspector Matt Greene, a senior inspector, and spoke with both my client's engineers and Appellant's consultants. After hearing from Appellant and his consultants in person and/or by

email/phone, Mr. Cheung and Mr. Greene from DBI found no merit in the claims of Appellant, and declined to wait any further on issuing my client's permit.

Appellant stresses that DBI Inspector Damien Martin told the parties that a drainage system is required; but he did so without a site visit. When a more senior official, Matt Greene, and Plan Checker engineer Jimmy Cheung actually came out and saw the conditions and reviewed the Plumbing Code (further analyzed below), they decided that no such system on the Duncan Property was required. Appellant also stresses that DBI's Joseph Duffy generally requests a drainage detail on drawings, but Mr. Duffy was speaking in generalities and did not make a site visit nor review the drawings my client submitted, which include a drainage detail showing a newly created 2% grade away from the proposed retaining wall, and a field of gravel in the middle of the yard to disperse water (see page 3 and 4 of approved plans at **Exhibit C**). Mr. Duffy is correct that in other instances, such as the creation of a roof or paved courtyard, drainage into a City street is required and must show on plans.

Appellant states that Plumbing Code Section 1101.2.1 (see below) applies and requires that water from my client's backyard "shall drain or be conveyed directly to the building drain, or building sewer" located on my client's property. That subsection lists when it is applicable: namely, in the case of light wells and courtyards and the like. But it is *Appellant* who has a light well (without a drain; see photo **Exhibit G**). My client only has a rear yard, and yards are specifically excluded from this Code subsection.

The correct Code Section that applies to my client's property is Plumbing Code Section 1101.2 (also shown below) because only this section is applicable to a "yard". This Section allows the "Authority Having Jurisdiction" (a Building Department employee) to allow drainage to go to "some other place

of disposal satisfactory to the Authority Having Jurisdiction" -- not necessarily to a drain that leads directly to a City street. In the matter at hand, the Building Department has decided that water absorption into the rear yard (which has been ongoing for over a hundred years) is the "place of disposal" that is satisfactory to the Authority Having Jurisdiction. [3]

Plumbing Code Comparisons

Plumbing Code subsection 1101.2.1, which Appellant cites, and which does *not* apply to the Subject Property, requires a costly engineered drainage system:

1101.2.1 Leaders, Connection to Drain.

All storm water or casual water from roof areas, balconies, lightwells, courtyards or similar areas which total more than 200 square feet (18.4 square meters) aggregate shall drain or be conveyed directly to the building drain, or building sewer, or to an approved alternate location based on approved geotechnical and engineering designs. Such drainage shall not be directed to flow onto adjacent property or over public way, including sidewalks.

Plumbing Code 1101.2, which Appellant *ignores*, and which *does* apply to the Subject Property, is much less demanding:

1101.2 Where Required

Roofs, paved areas, yards, courts, courtyards, vent shafts, light wells, or similar areas having rainwater, shall be drained into a separate storm sewer system, or into a combined sewer system where a separate storm sewer system is not available, or to some other place of disposal satisfactory to the Authority Having Jurisdiction.

Again, in the matter at hand, the Building Department has decided that water absorption into the rear yard (which has been ongoing for over a hundred years) is the "place of disposal" that is satisfactory to the Authority Having Jurisdiction. Appellant tries to jam a square peg into a round hole by

[3] Section 1101.2.1 incorrectly cited by Appellant, makes the property owner jump through even more hoops: it states that the alternative location must be justified by geotech and engineering reports if water is not to be drained though existing drains on the property. This more burdensome code section states that it applies to courtyard and light well areas and only when they are of 200 or more square feet.

inventing the notion that the roof of the Duncan Property's drains into its rear yard, triggering subsection 1101.2.1. However, the roof of my the Duncan Property's building slopes inwards towards its center where water collects and, in compliance with the Plumbing Code, an internal drainage pipe channels all roof rainwater directly into the City sewer system.

Ironically, the California Plumbing Code actually requires that *Appellant* waterproof and damp-proof *his* basement and create a drain under his foundation. See **Exhibit H** which is a copy of California Plumbing Code section 1805A.

Appellant's brief refers to an extensive irrigation system in my client's yard and states that it is a prime reason for water coming through appellant's hundred-year-old foundation. However, the only irrigation on the Duncan Street property is an automatic drip system, which operates only 2 or 3 times a week, only in dry seasons, and water is set to drip for only 3 minutes.

The claims in Appellant's Brief of a "history of drainage problems" creating a "bathtub" in which surface water builds up and spills over the property line are unsupported. Appellant's consultant (who has never been in the backyard or sampled the soil) states that the backyard soil is "impermeable". From that, Appellant's attorney (not an expert) concludes that when it rains a "bathtub" of water accumulates against the side of Appellant's building. To the contrary, my client's expert (who actually did a soil boring) has concluded that the rear yard is of typical permeability. See his letter at **Exhibit F**.

But most importantly, my client (a retired Landscape Architect) has designed a rear yard (see last page of approved plans at **Exhibit C**) where water drains away from Appellant's foundation and siding in several ways: (1) the proposed retaining wall will be capped at a point at least 8 inches above the level of the rear yard soil; (2) my client's rear yard will maintain a 2% grade in the rear

yard, starting at the retaining wall, so that water drains away from the retaining wall; and (3) my client has allowed Appellant to waterproof his foundation and siding by allowing the digging of the trench.

Conclusion

Appellant's subterranean space was intended to be an unfinished garage and not finished living space, and seasonal wetness due to moisture from below it and from his own rear yard and two adjacent lots was acceptable in the past. With our modern lifestyles and expensive-to-purchase larger homes, people now want to finish these basement spaces to live in them; however, doing so often requires more money than originally expected due to the need to create adequate light and a dry living space. While making better use of garage space is understandable, it is simply not fair (and not required by applicable law) that Appellant asks an adjacent neighbor to be responsible for property line modifications that will guarantee that his new subterranean bedroom suite will be more livable. It is likewise wrong for Appellant to misappropriate the appeals process in an effort to force a neighbor to create an underground drainage system requiring a 50 sq. ft. gravel moat along a neighbor's property near the joint property line.

In sum, an underground drainage system on my client's property was deemed unnecessary by my client's civil engineer and his soils engineer, and by the two officials at DBI who either reviewed the plans or made a site visit. Please keep in mind that the Sanchez Street property was built over 100 years ago by excavating into the hillside adjacent to the rear of the Duncan Property, creating a condition where the Duncan Property's soil touches the foundation of the Sanchez Property. That 100-year-old foundation has never been upgraded, not even when the garage was lowered years before Appellant asked for my client's assistance to change the garage into a bedroom — assistance

which my client has granted over and over again. The eight-inch-thick concrete retaining wall for which the First and Second Permit has been issued is being built at the Appellants' insistence to prevent soil from ever again touching his foundation wall, top to bottom. The deterioration of the Appellant's foundation was not the result of any flooding, surface or ground water drainage from the Duncan Property. Indeed, even after Mr. Cohen excavated his trench and left it open to the elements, when San Francisco experienced record-breaking rainfalls in October of last year, no flooding or drainage issues occurred. My client also has a report from Ti Tech Termite Co stating the drainage problems of the Sanchez Street house are not due to lack of soil percolation, but rather due to how the 100-year foundation was built and maintained. As the photo at **Exhibit I** shows, that old foundation is made out of a combination of loose rock, compacted soil and very little concrete. Above that concrete lies 100-year-old stud framing which has always had minimal protection from outside elements and/or from roots and rodents. It is wholly false that moisture in my client's rear yard triggered the need for Appellant to spend the amount of money he alleges he spent to create a moisture-free new master bedroom suite in his basement.

My client has paid more than $13,500 to date for structural engineering plans, soils boring, a soils report and civil engineering reports, and my client has allowed a more than 50 square foot trench to remain for more than a year after tearing out his rear yard plantings. Appellant has contributed nothing to that and requests my client pay another $25,000 to create a complex underground drain system entirely on my client's property. Appellant has made a claim against my client for approximately $100,000 in damages to his home as a result of water and roots allegedly crossing the property line to his basement. That claim is being handled by my client's insurance company, and by Appellant's litigation attorney. That dispute is properly making its way through the court system and may result in a settlement. Appellant's claim should remain there, and Appellant should not be

asking the Board of Appeals to decide a private dispute; moreover, Appellant should not be using the Board as leverage in a civil dispute, as my client fears is occurring.

The implication of a decision in Appellant's favor is enormous. It would mean that when anyone excavates to build into a hillside, or expands the width of an existing building to a property line, and thereby causes his or her building to touch a neighbor's rear yard soil, the *neighbor* is legally and financially responsible: (1) to excavate and create an impermeable concrete retaining wall as a barrier, and (2) to install a drainage system behind that wall and divert that water under the *neighbor's* building to a street. Compare the enormous cost for a neighbor to the cost which the party doing the construction would incur, simply by installing a vertical moisture barrier protecting the foundation exterior.

As this letter has explained, my client has again and again agreed to the changing requests that Appellant has made, but the last demand concerning drainage, which creates a de facto lot line adjustment, is one too many. The old adage "No good deed ever goes unpunished" is certainly relevant in this matter. [4]

Very truly yours,

M. Brett Gladstone

cc: Opposing counsel
Client
Matthew Green
Jimmy Cheung

[4] This adage has been attributed to writer Oscar Wilde and several other well-known writers.

EXHIBIT A

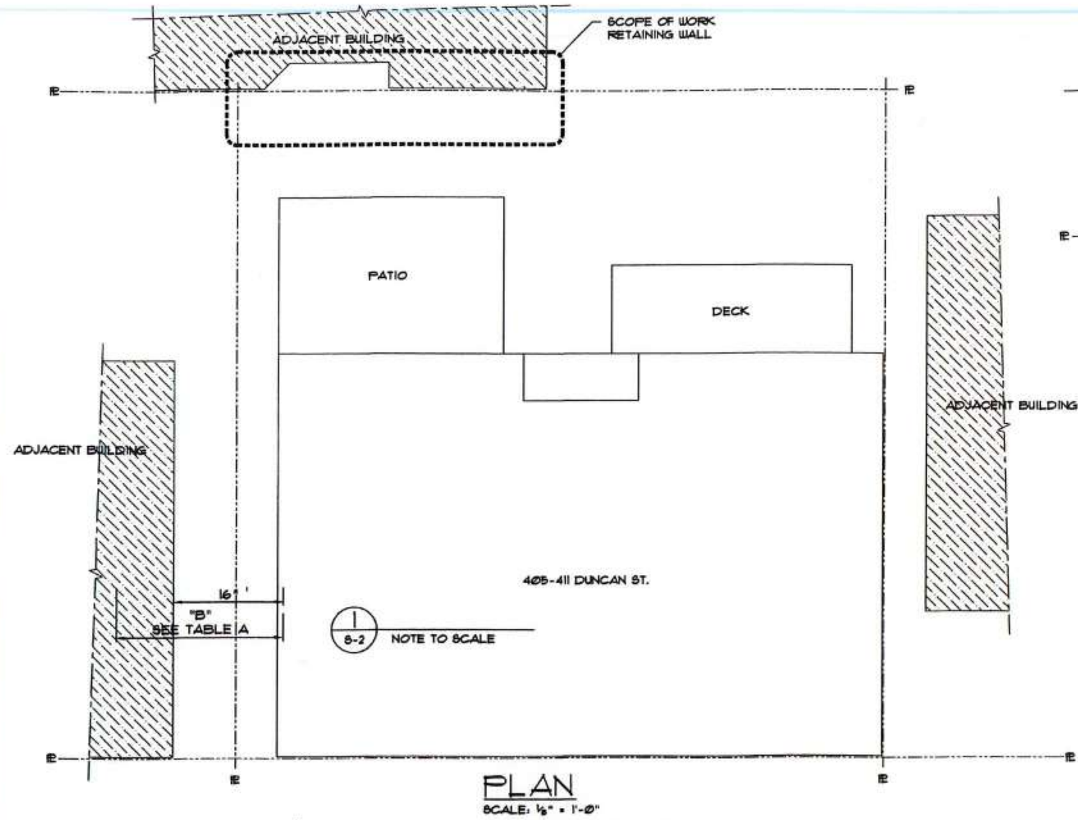
421
96%
413
415a
Duncan St
409b
405
407
1468
401
1450
Duncan St
Duncan St
Sanchez St
Sanchez St
Google

EXHIBIT B

Appellant's foundation with its new waterproofing membrane (in silver)

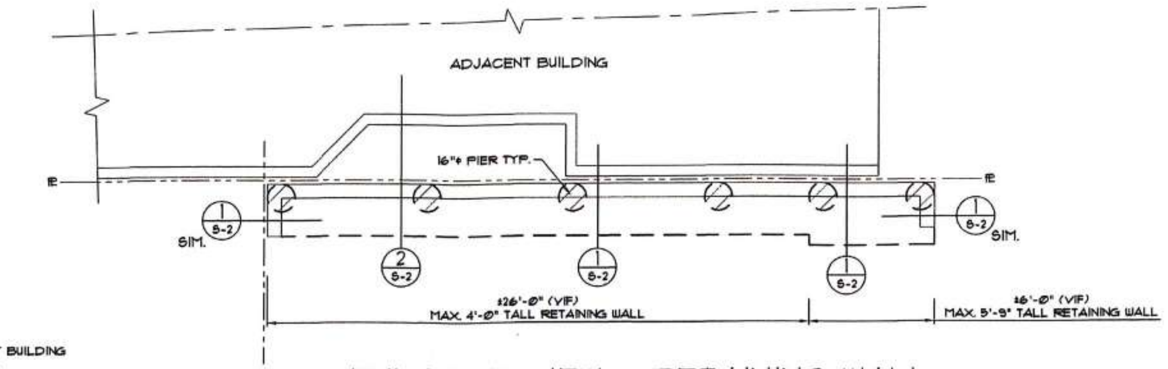
EXHIBT C

AGENCY USE ONLY



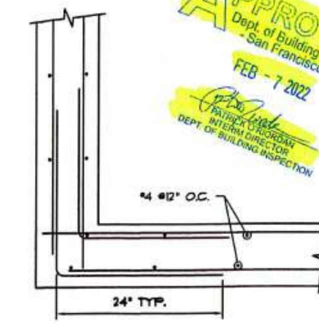
1 S-2 NOTE TO SCALE

PLAN
SCALE: 1/8" = 1'-0"



ENLARGE VIEW @ RETAINING WALL
SCALE: 1/4" = 1'-0"

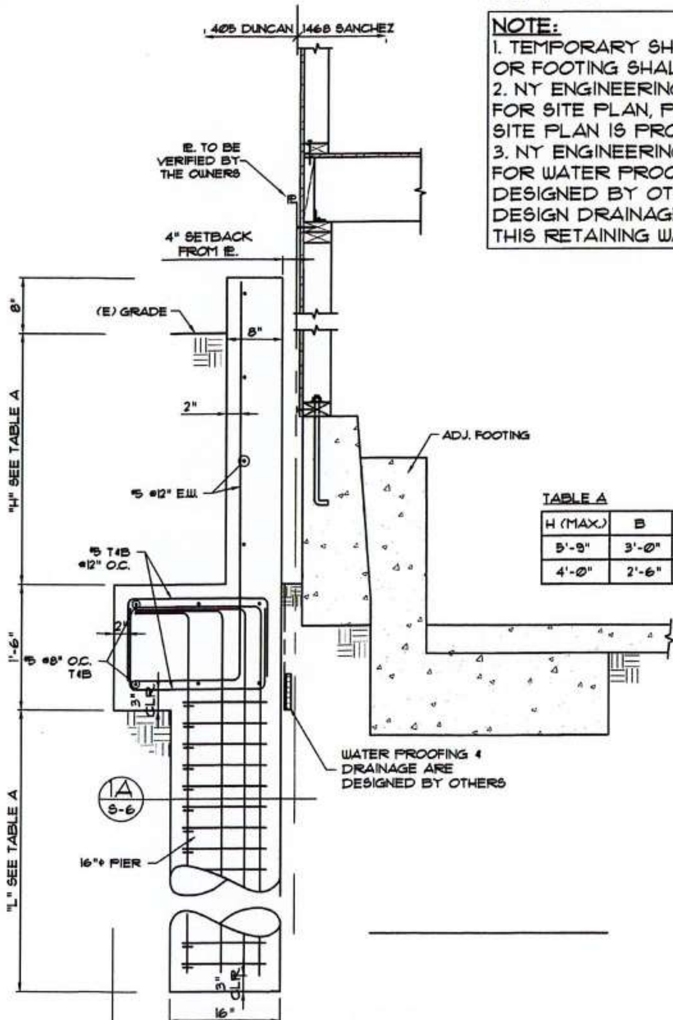
SCOPE OF WORK:
RETAINING WALL DESIGN AT PROPERTY LINE.



3 S-1 TYP. DETAIL FOR WALL CORNERS
NOTE TO SCALE

APPROVED
Dept. of Building Insp.
San Francisco
FEB - 7 2022

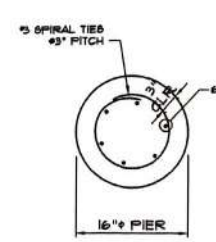
NOTE:
1. TEMPORARY SHORING UNDER SEPARATE PERMIT OR FOOTING SHALL BE POURED IN ± 4'-0" SECTIONS.
2. NY ENGINEERING HAS NO RESPONSIBILITY FOR SITE PLAN, PROPERTY LINES, & SETBACKS. SITE PLAN IS PROVIDED BY THE OWNERS.
3. NY ENGINEERING HAS NO RESPONSIBILITY FOR WATER PROOFING & DRAINAGE. THEY ARE DESIGNED BY OTHERS. NY ENGINEERING DOES NOT DESIGN DRAINAGE/WATERPROOFING RELATED WITH THIS RETAINING WALL.



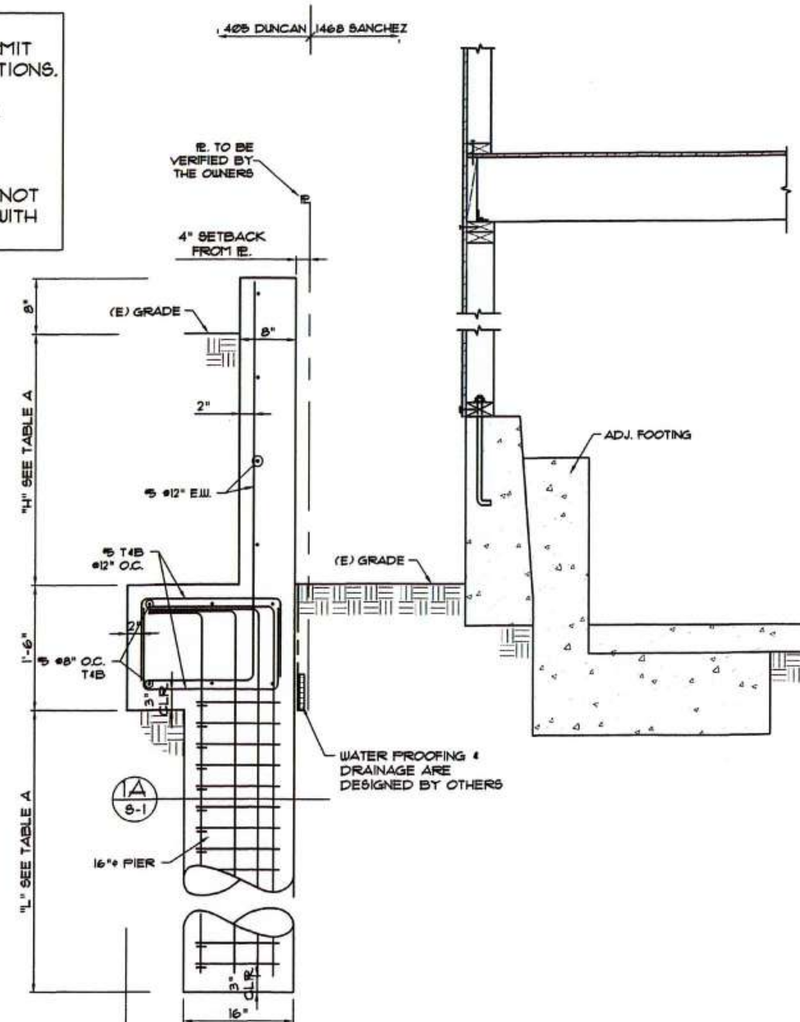
1 S-1 NOTE TO SCALE

TABLE A

H (MAX)	B	L (MIN)	PIER SPACING (MAX)
5'-9"	3'-0"	12'-0"	4'-0" O.C.
4'-0"	2'-6"	12'-0"	7'-0" O.C.



1A S-1 1" = 1'-0"



2 S-1 NOTE TO SCALE

GENERAL NOTES:

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF "2019 CBC", AND SF BUILDING CODE AMENDMENTS AND ORDINANCES, LATEST EDITION.
2. DETAILS OF CONSTRUCTION SHALL BE VERIFIED AT SITE BY THE CONTRACTOR, AND DISCREPANCIES BETWEEN THE PLAN AND EXISTING CONDITIONS SHALL BE PROMPTLY REPORTED TO ENGINEER PRIOR TO PROCEED WITH WORK.
3. DIMENSIONS SHOWN ON THE DRAWINGS ARE APPROXIMATE AND SHALL BE CONFIRMED BY THE CONTRACTOR. CONTRACTOR SHALL BE RESPONSIBLE TO CAREFULLY MEASURE ALL EXISTING CONDITIONS TO ASSURE ACCURATE POSITIONING OF THE NEW CONSTRUCTION.
4. DETAILS SHOWN ARE TYPICAL, SIMILAR DETAILS APPLY TO SIMILAR SITUATIONS.
5. DO NOT SCALE THESE DRAWINGS.
6. STRUCTURAL ENGINEER ASSUMES NO RESPONSIBILITY FOR THE SUPERVISION OF CONSTRUCTION OR PROPER EXECUTION OF THE WORK SHOWN ON THESE DRAWINGS. SAFETY METHODS AND TECHNIQUES ARE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.
7. THE PLANS AND DETAILS PREPARED BY THE ENGINEER ARE FOR THE COMPLETED WORK ONLY. IN PREPARING THEM, THE ENGINEER ASSUMES NO RESPONSIBILITY FOR CONSTRUCTION PROCEDURES NECESSARY TO ACHIEVE THE COMPLETE WORK.
8. DAMAGE TO EXISTING CONDITIONS NOT CAUSED BY THE NEW WORK SHALL BE REPAIRED AND RESTORED TO THE ORIGINAL CONDITIONS AT CONTRACTOR'S EXPENSE.
9. IT SHALL BE THE CONTRACTOR'S SOLE RESPONSIBILITY TO DESIGN AND PROVIDE ADEQUATE SHORING, BRACING, AND UNDERPINNINGS, ETC. AS REQUIRED FOR THE PROTECTION OF LIFE AND PROPERTY PRIOR TO AND DURING CONSTRUCTION. SUCH DESIGN SHALL BE SUBMITTED TO THE STRUCTURAL ENGINEER FOR REVIEW PRIOR TO SUCH WORK.
10. ALL SITE WORK, EXCAVATION, BACKFILL ETC. SHALL CONFORM TO SOIL REPORT PREPARED BY WAYNE L. TING DATED DEC 08, 2021. PROJECT NUMBER 5984.

CONCRETE AND REBARS:

1. ALL CONCRETE WORK SHALL BE IN ACCORDANCE WITH LATEST A.C.I. CODE.
2. ALL CONCRETE SHALL HAVE MINIMUM COMPRESSIVE STRENGTH OF 3000 PSI AT 28 DAYS.
3. REINFORCING STEEL SHALL BE NEW, FREE OF SCALE, AND RUST PER ASTM-615, GRADE 40 FOR #4 OR SMALLER BAR AND GRADE 60 FOR #5 OR LARGER BAR.
4. CONCRETE COVERAGE OF REINFORCING BARS SHALL BE AS FOLLOWS:
   - 3" CONCRETE IF POURED DIRECTLY AGAINST EARTH.
   - 2" CONCRETE IF EXPOSED TO EARTH BUT POURED IN FORMS.
   - 1 1/2" FOR BEAM, COLUMN, AND EXTERIOR SURFACES.
   - 3/4" FOR INTERIOR SLAB, JOIST AND WALL.
5. ALL LAP LENGTH SHALL BE 30" MIN. NOT LESS THAN 48X DIAMETER OF REBAR.
6. EPOXY USED SHALL BE SIMP. SET-XP

RECEIVED
FEB 07 2022
DEPT. OF BUILDING INSPECTION
THIS PLAN MEETS THE QUALITY STANDARD FOR DIGITIZING
ACCEPTED

LUMBER:

1. ALL WOOD JOISTS & BEAMS SHALL BE DOUGLAS FIR LARCH NO.1 OR BETTER (UNLESS NOTED OTHERWISE).
2. ALL LUMBER TO BE GRADE STAMPED S-DRY & THE MOISTURE CONTENT (MC) BE LESS THAN OR EQUAL TO 19 PERCENT.
3. ALL PLYWOOD SHEATHING SHALL BE APPROVED STRUCTURAL I, CDX EXTERIOR GRADE, APA OR APPROVED EQUAL.
4. BOLTS BEARING ON WOOD SHALL HAVE ADEQUATE WASHERS.
5. ALL NAILING SHALL BE COMMON NAIL.
6. ALL STUD WALLS SHALL BE 2X4 @ 16"O.C. (U.N.O.)
7. PROVIDE DOUBLE JOIST BELOW WALLS.
8. PSL, LVL AND TJI SHALL BE MANUFACTURED BY TRUS JOIST MACMILLAN OR APPROVED EQUAL.
9. INSTALL PSL, LVL AND TJI PER MANUFACTURER'S RECOMMENDATIONS.
10. PROVIDE 2X6 STUDS @ 16" O.C. FOR ALL PLUMBING WALLS.
11. ALL PLYWOOD CONNECTED TO THE FLOOR JOIST SHALL BE GLUED AND NAILED.
12. ALL LUMBER EXPOSED TO WEATHER SHALL BE DOUGLAS FIR PRESSURE TREATED OR ALL HEART REDWOOD.
13. PARALLAM PSL, LVL AND TJI BEAMS BY TRUSS JOIST MACMILLAN, ICBO APPROVAL NO. NER481.
14. CONNECTORS USED ABOVE GRADE SHALL BE TYPE 304 Ø4 306 STAINLESS STEEL, SILICON BRONZE, COPPER, HOT-DIPPAD ZINC OR HOT-TUMBLED COATED GALVANIZED STEEL NAILS. CRC R317.3.
15. CONNECTORS FOR PRESSURE TREATED OR FIRE-RETARDANT TREATED WOOD ARE HOT-DIPPED ZINC COATED GALVANIZED STEEL, STAINLESS STEEL, SILICON BRONZE, OR COPPER. COATING TYPES SHALL BE PER MANUFACTURE RECOMMENDATIONS OR AS A MINIMUM CAN BE MECHANICALLY DEPOSITED ZINC-COATED GALVANIZED STEEL. CRC R317.3.
16. ALL EXT. WALLS SHALL HAVE 1/2" PLYWOOD W/ 10D @ 6" OC. (EDGES) TYP. U.N.O.
17. ALL ANCHOR BOLTS ARE PROVIDED WITH 3" X 3" X 0.229" STEEL PLATE WASHERS. THE HOLE IN THE PLATE WASHER IS PERMITTED TO BE DIAGONALLY SLOTTED WITH A WIDTH OF UP TO 3/16" LARGER THAN THE BOLT DIAMETER AND A SLOT LENGTH NOT TO EXCEED 1 3/4", PROVIDE A STANDARD CUT WASHER IS PLACED BETWEEN THE PLATE WASHER AND THE NUT, CRC 602.1 1.1

JIMMY CHEUNG, D'
FEB 07 2022

NY ENGINEERING
Consulting Engineers
NILGUN A. WOLFE (P.E.)
850 S. Van Ness Ave, Suite #3
San Francisco, CA 94110
Tel: (415) 568-1270
Email: NYengineering@SBCglobal.net
Web: www.nyengineering.net

REGISTERED PROFESSIONAL ENGINEER
NILGUN A. WOLFE
No. 68482
Exp. SEP. 30, 2023
CIVIL
STATE OF CALIFORNIA

PLAN & DETAILS

405 DUNCAN ST.
SAN FRANCISCO, CA

Submitted on:
Revisions:
1 2 3 4 5 6 7 8

FEB 4, 2022

Scale: AS SHOWN

Drawing No.
S-1

City and County of San Francisco
Department of Building Inspection

London N. Breed, Mayor
Patrick O'Riordan, Interim Director

NOTICE

SPECIAL INSPECTION REQUIREMENTS

Please note that the Special Inspections shown on the approved plans and checked on the Special Inspections form issued with the permit are required for this project. The employment of special inspectors is the direct responsibility of the owner or the engineer/architect of record acting as the owner's representative.

These special inspections are required in addition to the called inspections performed by the Department of Building Inspection. The name of the special inspector shall be furnished to the district building inspector prior to start of work for which special inspection is required.

For questions regarding the details or extent of required inspection or tests, please call the Plan Checker assigned to this project or 628-652-3407. If there are any field problems regarding special inspection, please call your District Building Inspector or 628-652-3400 Ext 1.

Before final building inspection is scheduled, documentation of special inspection compliance must be submitted to and approved by the Special Inspection Services staff. To avoid delays in this process, the project owner should request final compliance reports from the architect or engineer of record and/or special inspection agency soon after the ***conclusion of work requiring special inspection. The permit will not be finalized without compliance with the special inspection requirements.***

STRUCTURAL OBSERVATION REQUIREMENTS

Structural observation shall be provided as required per Section 1704.6. The building **permit will not be finalized without compliance with the structural observation requirements.**

Special Inspection Services Contact Information

1. Telephone: (628) 652-3407

2. Email: dbi.specialinspections@sfgov.org

3. In person: 49 South Van Ness Ave – Suite 400

Note: We are moving towards a "paperless" mode of operation. All special inspection submittals, including final letters, may be emailed (preferred) or faxed. We will also be shifting to a paperless fax receipt mode.

Special Inspection Services
49 South Van Ness Ave – Suite 400 – San Francisco CA 94103
Office (628) 652-3407 – www.sfdbi.org

Updated 10/05/2020

SPECIAL INSPECTION AND STRUCTURAL OBSERVATION

A COPY OF THIS DOCUMENT SHALL BE KEPT WITH THE APPROVED STRUCTURAL DRAWING SET

JOB ADDRESS 405 DUNCAN ST. SAN FRANCISCO, CA APPLICATION NO. 3023/0207/7420 ADDENDUM NO. ___

OWNER NAME _____ OWNER PHONE NO. ( ) _____

Employment of Special Inspection is the direct responsibility of the OWNER, or the engineer/architect of record acting as the owner's representative. Special inspector shall be one of those as prescribed in Sec. 1704. Name of special inspector shall be furnished to DBI District Inspector prior to start of the work for which the Special Inspection is required. Structural observation shall be performed as provided by Section 1704.6. A preconstruction conference is recommended for owner/builder or designer/builder projects, complex and high-rise projects, and for projects utilizing new processes or materials.

In accordance with Chapter 17 (SFBC), Special Inspection and/or testing is required for the following work:

1. [ ] Concrete (Placement & sampling)
2. [ ] Bolts installed in concrete
3. [ ] Special moment - Resisting concrete frame
4. [X] Reinforcing steel and prestressing tendons
5. **Structural welding:**
   - **A. Periodic visual inspection**
   - [ ] Single pass fillet welds 5/16" or smaller
   - [ ] Steel deck
   - [ ] Welded studs
   - [ ] Cold formed studs and joists
   - [ ] Stair and railing systems
   - [ ] Reinforcing steel
   - **B. Continuous visual inspection and NDT** (Section 1704)
   - [ ] All other welding (NDT exception: Fillet weld)
   - [ ] Reinforcing steel; and [ ] NDT required
   - [ ] Moment-resisting frames
   - [ ] Others _____
6. [ ] High-strength bolting
7. [ ] Structural masonry
8. [ ] Reinforced gypsum concrete
9. [ ] Insulating concrete fill
10. [ ] Sprayed-on fireproofing
11. [X] Piling, drilled piers and caissons
12. [ ] Shotcrete
13. [ ] Special grading, excavation and filling (Geo. Engineered)
14. [ ] Smoke-control system
15. [ ] Demolition
16. [ ] Exterior Facing
17. **Retrofit of unreinforced masonry buildings:**
    - [ ] Testing of mortar quality and shear tests
    - [ ] Inspection of reporining operations
    - [ ] Installation inspection of new shear bolts
    - [ ] Pre-installation inspection for embedded
    - [ ] Pullforque tests per SFBC Sec.1607C & 1615C
18. **Bolts installed in existing concrete or masonry:**
    - [ ] Concrete [ ] Masonry
    - [ ] Pullforque tests per SFEBC Sec. 507C & 515C
19. [ ] Shear walls and floor systems used as shear diaphragms
20. [ ] Holdowns
21. **Special cases:**
    - [ ] Shoring
    - [ ] Underpinning [ ] Not affecting adjacent property
    - [ ] Affecting adjacent property: PA_____
    - [ ] Others
22. [ ] Crane safety (Apply to the operation of tower cranes on high-rise building) (Section 1705.22)
23. [ ] Others: "As recommended by professional of record" _____

24. **Structural observation per Sec. 1704.6 (SFBC) for the following:** [ ] Foundations [ ] Steel framing
    [ ] Concrete construction [ ] Masonry construction [ ] Wood framing
    [ ] Other: _____
25. Certification is required for: [ ] Glu-lam components
26. [ ] Firestops in high-rise building

Prepared by: NILGUN A. WOLPE Phone: 415 568-1710
Engineer/Architect of Record

Required information:
FAX: (_____) _____ Email nyengineering@sbcglobal.net

Review by: _____ Phone: (628) 652-_____
DBI Engineer or Plan Checker

****

APPROVAL (Based on submitted reports.)

_____
DATE DBI Engineer or Plan Checker / Special Inspection Services Staff

QUESTIONS ABOUT SPECIAL INSPECTION AND STRUCTURAL OBSERVATION SHOULD BE DIRECTED TO:
Special Inspection Services (628) 652-3407; or, dbi.specialinspections@sfgov.org

Updated 10/05/2020

INFORMATION SHEET S-19 ATTACHMENT A

FOR DBI USE ONLY

ASSIGNMENT OF REVIEW TIER

EXEMPTED: Reports per Section E and Third Party Peer Review Not Required

☐ If the box in Section 1 "Property Location" AND the box in Section 2 "Average Slope of Property" are marked "No" OR if all the boxes in Section 3 "Proposed Construction" are marked "No", reports per Section E and Third Party Peer Review are exempted by the SSPA.

TIER I: Reports per Section E Required but Third Party Peer Review Not Required

☐ If the box in Section 2 "Average Slope of Property" AND any boxes in Section 3 "Proposed Construction" are marked "Yes" AND the property does not lie within any areas of potential landslide hazard, DBI shall require mandatory submittal of reports per Section E only.

TIER II: Reports per Section E and Third Party Peer Review Required

☐ If the box in Section 2 "Average Slope of Property" AND any boxes in Section 3 "Proposed Construction" are marked "Yes" AND the property lies within the areas of potential landslide hazard, DBI shall require mandatory submittal of reports per Section E and require the permit application be subject to a third party peer review. At the discretion of the SSPA Review Committee, the peer review may be followed by the establishment of a Structural Advisory Committee (SAC) with the project reassigned to Tier III.

If the DBI Plan Review Engineer (or the SSPA Review Committee, if established), in their discretion, determines from the submitted documents that the project has a substantial impact on the slope stability of the site or creates a potential for earthquake induced landslide hazards, DBI may require that the third party peer review be followed by the establishment of a Structural Advisory Committee (SAC) and re-assigned the project to Tier III.

TIER III: Structural Advisory Committee (SAC) Review

☐ If the box in Section 1 "Property Location" AND any boxes in Section 3 "Proposed Construction" are marked "Yes", DBI shall require mandatory submittal of reports per Section E and require the permit application be subject to review by a Structural Advisory Committee (SAC), as defined by SFBC Section 105A.6.

Tier assigned by: _____ Phone: (415) _____
DBI Plan Review Engineer

Comment: _____

City and County of San Francisco
Department of Building Inspection

London N. Breed, Mayor
Tom C. Hui, S.E., C.B.O., Director

Attachment A

SLOPE AND SEISMIC HAZARD ZONE PROTECTION CHECKLIST

A COPY OF THIS DOCUMENT SHALL BE SUBMITTED WITH THE PERMIT APPLICATION

JOB ADDRESS 405 DUNCAN ST. SAN FRANCISCO, CA APPLICATION NO. _____ ADDENDUM NO. ___

OWNER NAME _____ OWNER PHONE NO. () _____

1: PROPERTY LOCATION		
EARTHQUAKE INDUCED LANDSLIDE AREA ON THE STATE OF CALIFORNIA DEPARTMENT OF CONSERVATION DIVISION OF MINES AND GEOLOGY (CDMG) SEISMIC HAZARD ZONES MAP FOR SAN FRANCISCO, RELEASED NOVEMBER 17, 2000.	YES ☐	NO X

2: AVERAGE SLOPE OF PROPERTY		
PROPERTY EXCEEDING AN AVERAGE SLOPE OF 4H:1V (25%) GRADE *(APPLICANT WILL NEED TO INCLUDE PLANS ILLUSTRATING SLOPE OF THE PROPERTY AND/OR INCLUDE A SURVEY VERIFYING THE SLOPE OF THE PROPERTY)*	YES ☐	NO X

3: PROPOSED CONSTRUCTION		
CONSTRUCTION OF NEW BUILDING OR STRUCTURE HAVING OVER 1000 SQFT OF NEW PROJECTED ROOF AREA	YES ☐	NO X
HORIZONTAL OR VERTICAL ADDITIONS HAVING OVER 500 SQFT OF NEW PROJECTED ROOF AREA	YES ☐	NO X
SHORING	YES ☐	NO X
UNDERPINNING	YES ☐	NO X
GRADING, INCLUDING EXCAVATION OR FILL OF OVER 50 CUBIC YARDS OF EARTH MATERIAL	YES ☐	NO X
CONSTRUCTION ACTIVITY LISTED BELOW DETERMINED BY THE BUILDING OFFICIAL THAT MAY HAVE A SUBSTANTIAL IMPACT ON THE SLOPE STABILITY:		
RETAINING WALL	YES ☐	NO X
OTHERS: _____	YES ☐	NO X

SECTION 4: LICENSED DESIGN PROFESSIONAL VERIFICATION AND SIGNATURES

Under penalty of perjury, I certify that the information provided on this form is based on my personal review of the building and its records, or review by others acting under my direct supervision, and is correct to the best of my knowledge.

Prepared by: NILGUN A. WOLPE
Engineer/Architect of Record

(415) 568-1710 Telephone
NYengineering@SBCglobal.net Email

_____ Signature
1-4-2022 Date

Architect/Engineer's Seal or Stamp Here
REGISTERED PROFESSIONAL ENGINEER NILGUN A. WOLPE No. 68482 Exp. SEPT. 30, 2023 CIVIL STATE OF CALIFORNIA

Technical Services Division
1660 Mission Street– San Francisco CA 94103
Office (415) 558-6205 – FAX (415) 558-6401 – www.sfdbi.org

AGENCY USE ONLY

APPROVED
Dept. of Building Insp.
- San Francisco -
FEB - 7 2022
PATRICK O'RIORDAN
INTERIM DIRECTOR
DEPT OF BUILDING INSPECTION

RECEIVED
FEB 07 2022
DEPT. OF BUILDING INSPECTION
THIS PLAN MEETS THE QUALITY STANDARD FOR DIGITIZING
ACCEPTED _____

JIMMY CHEUNG, D
FEB 07 2022

NY ENGINEERING
Consulting Engineers
NILGUN A. WOLPE (P.E.)
856 S. Van Ness Ave, Suite #3
San Francisco, CA 94110
Tel: (415) 568-1710
Email: NYengineering@SBCglobal.net
Web: www.nyengineering.net

REGISTERED PROFESSIONAL ENGINEER NILGUN A. WOLPE No. 68482 Exp. SEPT. 30, 2023 CIVIL STATE OF CALIFORNIA

SPECIAL INSPECTION
FORM & SLOPE
PROTECTION
CHECKLIST

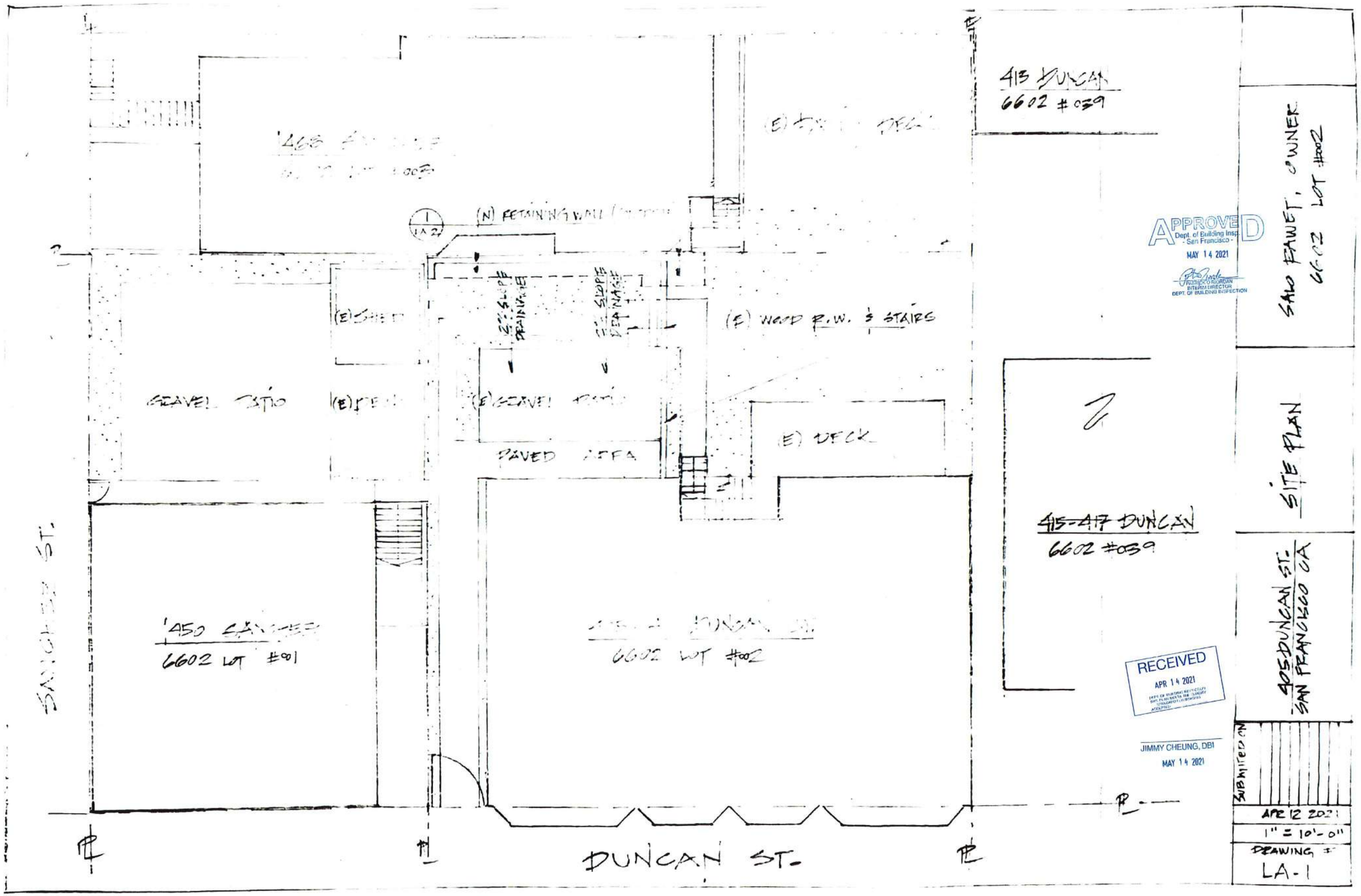
405 DUNCAN ST.
SAN FRANCISCO, CA

Submitted on:
Revisions: 1 2 3 4 5 6 7 8

FEB 4, 2022

Scale: AS SHOWN

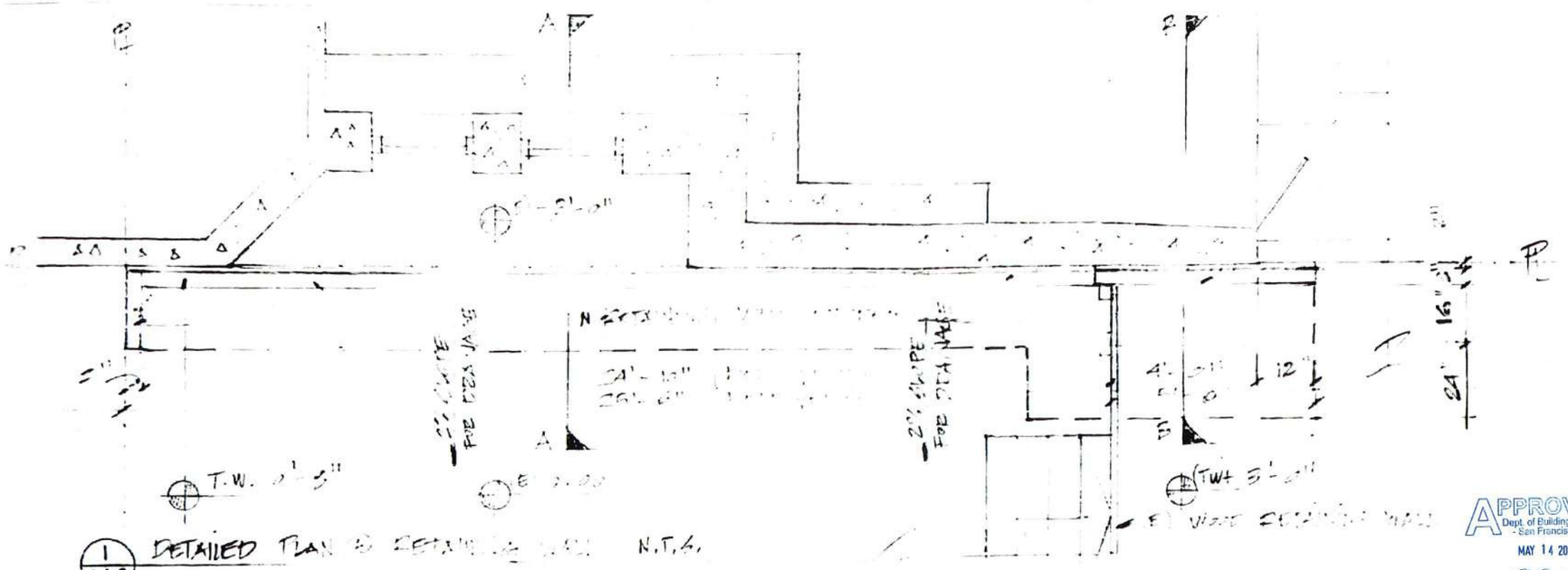
Drawing No.
S-2



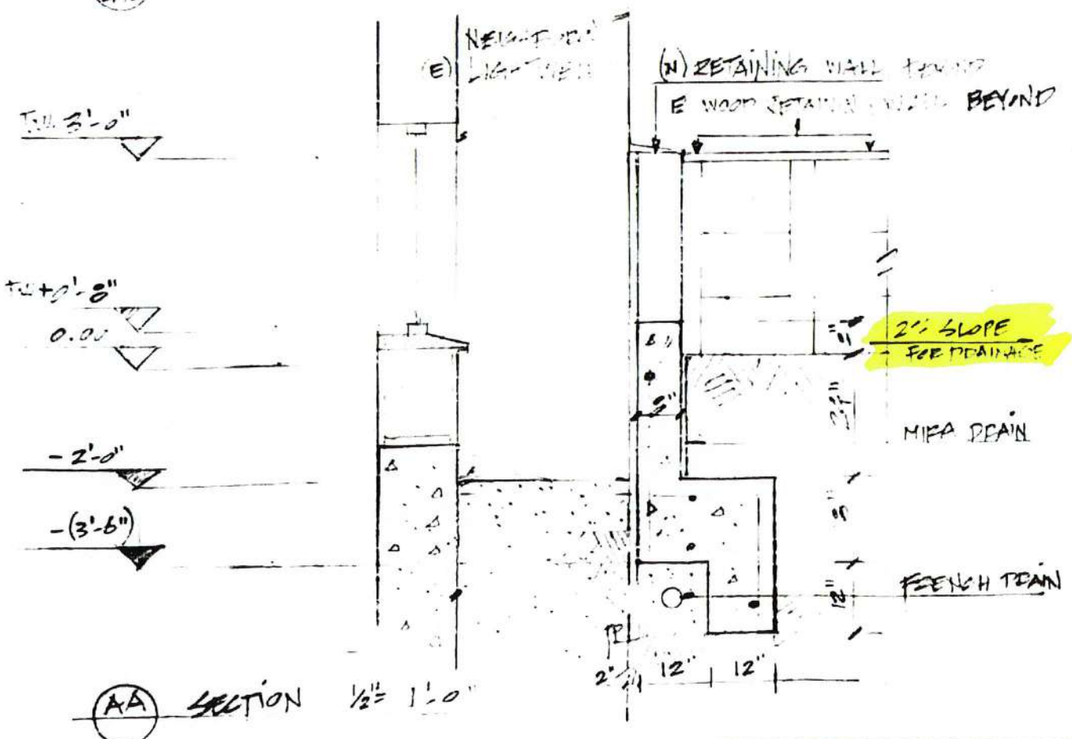
APPROVED
Dept. of Building Inspection
- San Francisco -
MAY 14 2021
PATRICK O'RIORDAN
INTERIM DIRECTOR
DEPT. OF BUILDING INSPECTION

RECEIVED
APR 14 2021
DEPT. OF BUILDING INSPECTION
SAN FRANCISCO

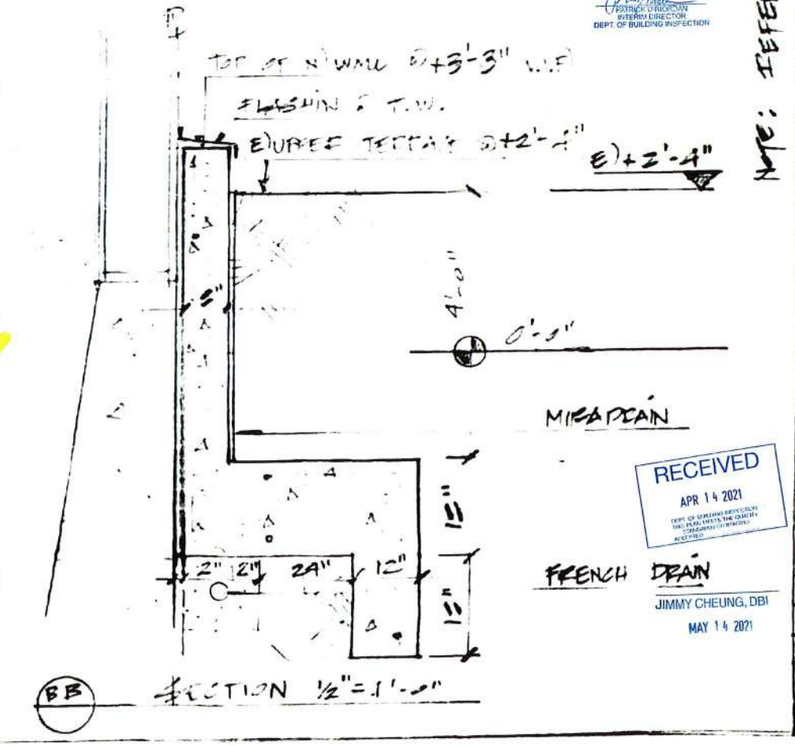
JIMMY CHEUNG, DBI
MAY 14 2021



1/LA2 DETAILED PLAN & [illegible] N.T.S.



AA SECTION ½"= 1'-0"



BB SECTION ½"=1'-0"

APPROVED
Dept. of Building Insp.
- San Francisco -
MAY 14 2021
PATRICK O'RIORDAN
INTERIM DIRECTOR
DEPT. OF BUILDING INSPECTION

RECEIVED
APR 14 2021
DEPT. OF BUILDING INSPECTION
THIS PLAN MEETS THE OBJECTIVE CONSIDERED COMPLETE
ACCEPTED

JIMMY CHEUNG, DBI
MAY 14 2021

NOTE: REFER TO ARCHITECTURAL DRAWINGS FOR ALL SIZES.

SAID RAWET - OWNER
0602 LOT #02

DETAILED PLAN AND SECTIONS

A. DUNCAN ST.
SAN FRANCISCO, CA

SUBMITTED ON
APRIL 12 21

SCALE AS
DRAWING
LA-2

EXHIBT D

LC ENGINEERING
Surveying, Civil and Structural Engineering
598 E Santa Clara St Ste 270, San Jose, CA 95112
T(408) 806-7187

February 4, 2022

Mr. David Gellman & Mr. Salo Rawet
411 Duncan St
San Francisco, CA 94131

Dear Mr.Gellman & Mr. Rawet :

RE: 405 Duncan St, San Francisco
Responses to Comments

I have visited the site on January 16, 2022, and reviewed the forwarded comments you received from Robert C. Wong, P.E. I have also spoken with Robert on two occasions on January 28, 2922, and February 4, 2022. Below are his comments and my responses:

Comment No. 1 - A drainage system that moves all surface water from the yard into the public street without entering onto other private property must be added. Based on my site observation along with this one plan sheet, the rear yard of 405 Duncan Street appears to have no existing drainage system that will move any surface water to the public street without traversing thru another private property, specifically my client's property, 1468 Sanchez Street.

Response – Recommend that the top of the proposed retaining wall be set at a minimum of 4" higher than the highest adjacent grade and the rear yard lower pad be graded a minimum of 2% for 10 ft away from the retaining wall and house at 405 Duncan Street.

Comment No. 2 - The S-2 Sheet proposes a drainage system on the outside of the grade beam. It doesn't show the system connected and a means to move the water into the public street.

Response – Recommend that the drainage system be removed from the plan. There is no need for this drainage system since the area is too small for any meaningful surface water contribution. The owners of 1468 Sanchez Street should install a drainage system within the building light well area to collect and remove rainwater from this area.

Comment No. 3 - There are no details of waterproofing the 1468 Sanchez Street concrete stem/foundation, nor for the portions of the currently above-grade exterior wall above that foundation that will be trapped behind the retaining wall.

Response – It is the responsibility of the owners of 1468 Sanchez Street to waterproof their house.

Comment No. 4 - Seepage must be prevented from entering the 1468 Sanchez Street building light well area and retaining wall deflection must be prevented from placing pressure on the building. One possibility to address these is to install a vertical compressible material plug at the area adjacent to the light well.

Response – See response to comment no. 2 regarding seepage.

Comment No. 5 - Sloping the ground adjacent to the retaining wall away from the wall is required to keep surface water from building up behind the wall and coming into contact with the 1468 Sanchez Street building.

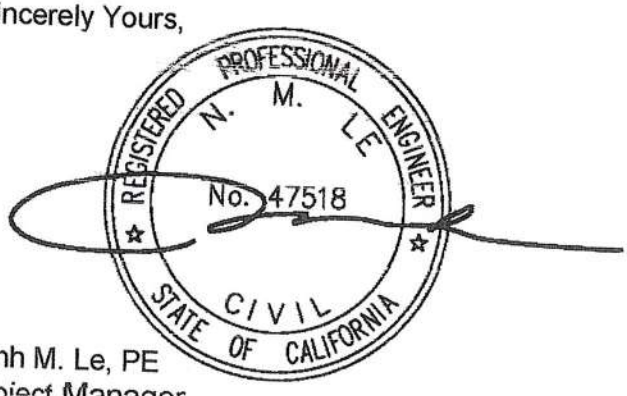
Response – See response to comment no. 1

Comment No. 6 - The retaining wall setback is called out to be 2" to 4" on your cross section. I believe it should be 4" clear from the property line/building face since it's up against a wood frame wall.

Response – Recommend 4" setback from property line to retaining wall face.

If you have any questions regarding this matter, please call me.

Sincerely Yours,



Ninh M. Le, PE
Project Manager

EXHIBIT E

Project No. 5984
8 December 2021

WAYNE TING & ASSOCIATES, INC.

GEOTECHNICAL CONSULTANTS
42329 Osgood Road, Unit A, Fremont, CA 94539
Phone (510) 623-7768 E-Mail: wayne@wayneting.net

Mr. Salo Rawet
405 Duncan Street
San Francisco, California

Subject: **GEOTECHNICAL INVESTIGATION**
Proposed Site Retaining Wall
405 Duncan Street
San Francisco, California

Dear Mr. Rawet:

In accordance with your authorization, **Wayne Ting & Associates, Inc. (WTAI)** has completed a geotechnical investigation for the proposed site retaining wall at the subject site. The purpose of this study was to investigate the subsurface conditions and obtain geotechnical data for use in the design and construction of the proposed site retaining wall. The scope of this investigation included the following:

a. A site and area reconnaissance by the Project Engineer.
b. An excavation, logging, and sampling of 1 exploratory boring.
c. Laboratory testing of selected soil samples.
d. An engineering analysis of the data and information obtained.
e. Preparation and writing of this report which presents our findings, conclusions, and recommendations.

SITE LOCATION AND DESCRIPTION

The subject site is located at 405 Duncan Street, San Francisco, California. The property is located to the south of Duncan Street. It is adjacent to other single-family homes. The ground surface is relatively flat throughout the property. An existing structure was present on the property at the time of our investigation.

PROPOSED PROJECT

The proposed project consists of constructing a new site retaining wall at the southern end of the property, south of the existing structure. We anticipate that the proposed retaining wall will utilize concrete-framed construction. We also anticipate that the existing retaining wall will be demolished. Light to moderate building loads are typically associated with this type of construction.

FIELD INVESTIGATION

WTAI conducted the field investigation on 1 December, 2021. The field investigation consisted of a site reconnaissance by the Project Engineer and an excavation of one exploratory boring. The boring was excavated using a hand auger. The approximate location of the boring is shown on the Site Plan, Figure 1.

Soils encountered during the excavation operation were continuously logged in the field. The classifications, descriptions, natural moisture contents, and depths of the obtained samples are shown in the Boring Log, Figure 2 of Appendix A.

LABORATORY TESTING

CLASSIFICATION

The field classifications of the samples were visually verified in the laboratory in accordance with the Unified Soil Classification System. These classifications are presented in the Boring Log, Figure 2.

MOISTURE-DENSITY

The natural moisture contents were determined for selected soil samples obtained during our field investigation. The data is presented in the aforementioned Boring Log.

SUBSURFACE SOIL CONDITIONS

The following soil descriptions were derived from our site reconnaissance and information obtained from our exploratory boring samples. Detailed descriptions of the materials encountered in the exploratory boring and results of the laboratory testing are presented in the Boring Log, Figure 2.

Boring 1 soils encountered at the site consisted of medium brown sandy clay, firm, and moist to the maximum depth explored of 7.0 feet.

No groundwater was encountered in the exploratory boring at the time of our field study. Fluctuations in the groundwater table are anticipated to vary with respect to seasonal rainfall.

SEISMIC CONSIDERATIONS

According to the published maps by the International Conference of Building Officials (I.C.B.O.), in February 1998, the distances from active faults to the subject site are listed in the following table.

Fault Name	Distance (kilometers)	Direction From Site
Monte Vista	7.9	Southwest
San Andreas	10.3	Southwest

CALIFORNIA BUILDING CODE SITE CHARACTERIZATION

The following design values are base on the geologic information, longitude and latitude of the site, and the USGS computer program. Furthermore, in accordance with California Building Code 2019 (ASCE 7-16), the site seismic design values are provided as follow:

CBC Category/Coefficient ASCE 7-16	Design Value
Short-Period MCE at 0.2s, Ss	1.500
1.0s Period MCE, S1	0.600
Soil Profile Type, Site Class	D
Site Coefficient, Fa:	1.0
Site Coefficient, Fv:	null or See section 11.4.8 or 1.7
S_{MS} = Spectral Response Accelerations	1.500
S_{M1} = Spectral Response Accelerations	null or See section 11.4.8
S_{DS} = Design Spectral Response Accelerations	1.000
S_{D1} = Design Spectral Response Accelerations	null or See section 11.4.8
** Latitude: 37.732571 Longitude: -122.386309	

It is noted that final values should be determined by the project structural engineer according to site class, risk categories of the proposed retaining wall, and ASCE 7-16 Table 11.4-1 and 11.4-2.

DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

1. Based on the results of our investigation, WTAI concludes that the subject site is geotechnically suitable for the proposed site retaining wall provided the recommendations presented in this report are incorporated into the project plans and specifications.

2. WTAI should review the foundation plans and specifications so that comments can be made regarding the interpretation and implementation of our geotechnical recommendations in the design and specifications.

3. It is recommended that WTAI be retained for observation during foundation construction phases to help determine that the design requirements are fulfilled. Our firm should be notified at least two working days prior to grading and/or foundation operations on the property.

4. Any work related to the foundation operations performed without the direct observation of WTAI will invalidate the recommendations of this report.

5. The recommendations given in this report are applicable only for the design of the previously described site retaining wall and only at the location indicated on the site plan. They should not be used for any other purpose.

FOUNDATION

6. The proposed retaining wall can be supported on a pier and grade beam foundation. The drilled piers should have a minimum diameter of 16 inches and a minimum embedment of 10 feet below the bottom of grade beam. These piers should be designed for an allowable skin friction value of 350 pounds per square foot for dead plus live loads. This value can be increased by one-third for total loads which include wind or seismic forces. This value is only applicable after a minimum penetration of 3 feet below the lowest adjacent finished grade has been achieved. The validity of this value is based on a minimum spacing of 3 pier diameters measured center-to-center.

7. Resistance to lateral force may be provided by passive earth pressure mobilized along the pier length in the firm natural ground below a depth of 3 feet. Passive earth pressure may be computed as an equivalent fluid weighing of 250 pounds per cubic foot. For design of isolated piers, the allowable passive pressure may be increased by a factor of 2.

8. After the pier drilling has completed, the bottom of the pier excavations should be cleaned of excessive loose materials prior to placing the reinforcing steel and concrete.

9. Care should be exercised during concrete placement to prevent the concrete from spilling around the pier shafts. If excess spillage occurs, the fresh concrete should be removed.

RETAINING WALL

10. Retaining walls under 6 feet in height should be designed to resist lateral earth pressures from the backfill soils. The lateral earth pressures presented as an equivalent fluid weight for undrain walls are shown as follows:

TABLE I

Slope Inclination Behind Wall (Horizontal : Vertical)	Equivalent Fluid Weight (Pounds Per Cubic Foot) Undrain Condition
Flat	95

11. If surcharge loads are expected near the back of the retaining wall, an additional uniform pressure equal to one-half of the surcharged pressure should be assumed to act against the wall.

LIMITATIONS AND UNIFORMITY OF CONDITIONS

12. Our client should recognize that this report is prepared for the exclusive use of the proposed retaining wall. Our professional services, findings, and recommendations were prepared in

accordance with generally accepted engineering principles and practices. No other warranty, expressed or implied, is made.

13. The conclusions and recommendations contained in this report will not be considered valid after a period of two years unless the changes are reviewed, and the conclusions of this report are modified or verified in writing.

14. This report is issued with the understanding that it is the responsibility of the owner, or his representative, to ensure the information and recommendations contained in this report are brought to the attention of the Architect, Engineer, and Contractor. In all cases, the contractor shall retain responsibility for the quality of the work and for repairing defects regardless of when they are found. It is also the responsibility of the contractor for conforming to the project plans and specifications.

Should you have any questions relating to the contents of this report, please contact our office at your convenience.

Very truly yours,

WAYNE TING & ASSOCIATES, INC.

Wayne L. Ting, C.E.
Principal Engineer

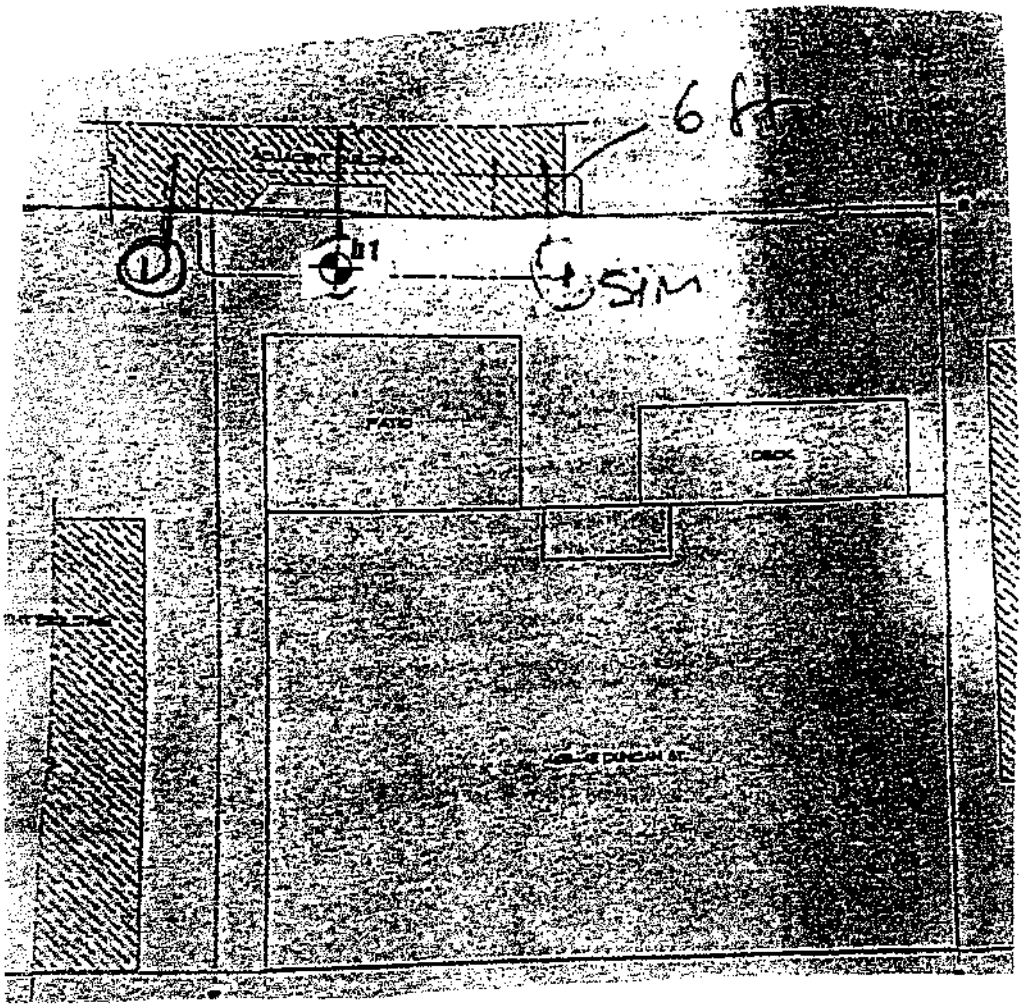
Copy: 1 to Mr. Rawet

REGISTERED PROFESSIONAL ENGINEER
WAYNE L. TING
NO. C 46276
CIVIL
STATE OF CALIFORNIA

APPENDIX A

Site Plan, Figure 1

Boring Log, Figure 2



DUNCAN STREET

WAYNE TING & ASSOCIATES, INC.	**Site Plan**	Figure No. 1
GEOTECHNICAL CONSULTANTS	Scale: N/A	Page No. 7

EXHIBIT F

Project No. 5984
24 March 2022

WAYNE TING & ASSOCIATES, INC.

GEOTECHNICAL CONSULTANTS
42329 Osgood Road, Unit A, Fremont, CA 94539
Phone (510) 623-7768 Email: wayne@wayneting.net

Mr. Salo Rawet
405 Duncan Street
San Francisco, California

Subject: **RESPONSE TO APPLICANT'S BRIEF FOR THE PROPOSED SITE RETAINING WALL**
405 Duncan Street
San Francisco, California

Reference:
1) Geotechnical Investigation
By Wayne Ting & Associates, Inc.
Dated 8 December 2021
2) Appellant's Brief
By Dan Cohen
Dated 30 March 2022

Dear Mr. Rawet:

At your request, **WAYNE TING & ASSOCIATES, INC. (WTAI)** has reviewed the original soils report and the appellant's brief (References 1 and 2) to determine if the geotechnical recommendations provided in the original report may be utilized to address the concerns brought to our attention in the appellant's brief.

It is claimed in Arguments, item B that the existing soil condition is "relatively impermeable and not free draining". Based on our review of our geotechnical investigation (Reference 1), it is the opinion of WTAI that the soil at the site is not impermeable for surface infiltration.

Should you have any questions relating to the contents of this report, please contact our office at your convenience.

Very truly yours,

WAYNE TING & ASSOCIATES, INC.

Wayne Ting, C.E.
Principal Engineer

Copy: 1 to Mr. Rawet

REGISTERED PROFESSIONAL ENGINEER
WAYNE L. TING
NO. C 46276
CIVIL
STATE OF CALIFORNIA

EXHIBT G


MARVIN
MARVI

EXHIBT H

CALIFORNIA BUILDING CODE

- SECTION 1805A -
DAMPPROOFING AND WATERPROOFING

1805A.1 General.

Walls or portions thereof that retain earth and enclose interior spaces and floors below grade shall be waterproofed and dampproofed in accordance with this section, with the exception of those spaces containing groups other than residential and institutional where such omission is not detrimental to the building or occupancy.

Ventilation for crawl spaces shall comply with Section 1203.4.

EXHIBIT I


MARVIN
MARVIN
MARVIN