

File No. 150059

Committee Item No. \_\_\_\_\_

Board Item No. 27

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date February 24, 2015

#### Cmte Board

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

(Use back side if additional space is needed)

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appeal Letter - 01/16/2015</u>            |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Public Communication - 02/19/2015</u>     |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Memo - 02/13/2015</u>            |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Project Sponsor Letter - 02/12/2015</u>   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Clerical Documents and Hearing Notice</u> |

Completed by: John Carroll Date February 19, 2015

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

IZ@Vachell. Net  
(415) 922-7609  
3111 Jackson St  
SF 94111

January 16, 2015

REQUEST FOR CEQA HEARING

BOARD OF SUPERVISORS  
Ms. Angela Calvillo  
Clerk of the Board  
City Hall, Room 244  
San Francisco, CA 94102

RE: 2655 Broderick  
Block 0955 Lot 002  
Permit Application: 2013.09.12.6709  
DR case No: 14.1497D  
Permit Application: 2013.09.12.6711  
DR case No: 14.1498D

CEQA Categorical Exemption Determination by Mary Woods  
December 5, 2014

APPELLANTS:

Irving Zaretsky owner of 2701 Green Street

Engineers for 2701 Green Street:

Frank Rollo - geotechnical engineer  
Rodrigo Santos - Structural engineer  
Paul Cox - Structural engineer

Dear Members of the Board of Supervisors:

We are requesting a CEQA Hearing for the above captioned subject property. The City Planning Department has issued a CEQA

CATEGORICAL EXEMPTION DETERMINATION (CASE NOS. 2014.

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1497D AND 2014.1498D) by Mary Woods on December 5, 2014.

We are hereby appealing the City Planning Department Exemption based on its stated conclusion that “The project is categorically exempt under CEQA”.

The subject property is located at 2655 Broderick Street, on the West side of Broderick, bounded by Green Street to the North and Vallejo Street to the South. It was constructed around 1926. It is the uphill neighboring property to 2701 Green Street, an Historical Resource 12 unit apartment building constructed in 1913, as one of the earliest apartment buildings built in the Cow Hollow District of San Francisco.

## BACKGROUND

2655 Broderick is a single family home. Since late 1980's it has been sold and resold several times and each new owner engaged in construction of exterior additions to the building structure without proper permits and not with standing City review and prohibition of building these structures. These structures were accompanied by the raising of the soil level of up to 2 feet all along the 80 foot retaining wall of 2701 Green Street. These structures negatively impact 2701 Green street, its downhill neighbor, and have damaged the property.

1. The structures built surcharge the retaining wall of 2701 Green Street.
  - a. A planter constructed to abut the retaining wall (the issue only partially resolved) surcharges the retaining wall.
  - b. Rear deck stairs and foundation abutting the retaining wall of 2701 Green Street continue to surcharge the wall.
  - c. Raised soil levels at 2655 Broderick along the 80 foot open air retaining wall of 2701 Green Street surcharge the retaining wall.
2. Lack of proper drainage at 2655 Broderick and drainage directed against the property line of 2701 Green Street.
  - a. Raised soil level causes water to overflow onto 2701 Green Street and to continue to flow onto the public sidewalk of Green Street,
  - c. Soil - wood contact has led to decay to the property-line wood wall and framing of 2701 Green.
3. Encroachment across the property line at the roof in conjunction with an illegal roof deck prevent re-roofing of 2701 Green Street and prohibit repair of water penetration and the prevention of dry rot and mold.

The owners of 2655 Broderick request through these Permit Applications to legalize the existing structures AS IS.

The environmental impact of the raised soil level at 2655 Broderick, the lack of proper drainage and the overflow of water onto 2701 Green Street and onto the public sidewalk of Green Street present an environmental hazard.

2655 Broderick Street was built in 1926 and is over 45 years old and can be therefore to be considered as if an Historical Asset. The current exterior construction and proposed changes negatively impact the adjoining Historical Resource, 2701 Green Street.

There will be additional evidence presented to the Board of Supervisors eleven days prior to the Hearing date as provided by the Rules.

I attach the briefs submitted to the Planning Commission for the Hearing held on December 18, 2014. These briefs contain the technical engineering reports dealing with the geotechnical issues of the soil level and the surcharge of the retaining wall of 2701 Green Street.

Respectfully submitted,

  
Irving Zaretsky  
Appellant



# SAN FRANCISCO PLANNING DEPARTMENT

## CEQA Categorical Exemption Determination

### PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
2655 Broderick Street		0955/002	
Case No.	Permit No.	Plans Dated	
2014.1497D & 2014.1498D	2013.09.12.6709 & 2013.09.12.6711	June 6, 2014	
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval.			
BPA# 2013.09.12.6709 is to legalize an existing roof deck and stair penthouse; add new one-hour fire-rated wall along the south property line of the roof deck; and increase the existing parapet wall/guardrail from 38 inches to 42 inches in height (Exempt under CEQA Class 1). BPA# 2013.09.12.6711 is to legalize an existing second-story rear deck, and stairs connecting the deck to grade (this permit work is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment).			

### STEP 1: EXEMPTION CLASS

#### TO BE COMPLETED BY PROJECT PLANNER

<b>*Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.*</b>	
<input checked="" type="checkbox"/>	Class 1 – Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 – New Construction/ Conversion of Small Structures. Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class __

### STEP 2: CEQA IMPACTS

#### TO BE COMPLETED BY PROJECT PLANNER

<b>If any box is checked below, an <i>Environmental Evaluation Application</i> is required.</b>	
<input type="checkbox"/>	<b>Transportation:</b> Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	<b>Air Quality:</b> Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone)
<input type="checkbox"/>	<b>Hazardous Materials:</b> If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i> Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap &gt; Maher layer).</i>
<input type="checkbox"/>	<b>Soil Disturbance/Modification:</b> Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	<b>Noise:</b> Does the project include new noise-sensitive receptors (schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) fronting roadways located in the noise mitigation area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Noise Mitigation Area)
<input type="checkbox"/>	<b>Subdivision/Lot Line Adjustment:</b> Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)
<input type="checkbox"/>	<b>Slope = or &gt; 20%:</b> Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, or grading on a lot with a slope average of 20% or more? <i>Exceptions: do not check box for work performed on a previously developed portion of site, stairs, patio, deck, or fence work.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required
<input type="checkbox"/>	<b>Seismic: Landslide Zone:</b> Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, grading –including excavation and fill on a landslide zone – as identified in the San Francisco General Plan? <i>Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required
<input type="checkbox"/>	<b>Seismic: Liquefaction Zone:</b> Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1000 sq ft, shoring, underpinning, retaining wall work, or grading on a lot in a liquefaction zone? <i>Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required
<input type="checkbox"/>	<b>Serpentine Rock:</b> Does the project involve any excavation on a property containing serpentine rock? <i>Exceptions: do not check box for stairs, patio, deck, retaining walls, or fence work.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Serpentine)
<b>*If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an <u>Environmental Evaluation Application</u> is required, unless reviewed by an Environmental Planner.</b>	
<input type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional):	

**STEP 3: PROPERTY STATUS – HISTORIC RESOURCE  
TO BE COMPLETED BY PROJECT PLANNER**

<b>PROPERTY IS ONE OF THE FOLLOWING:</b> (refer to Parcel Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input checked="" type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

**STEP 4: PROPOSED WORK CHECKLIST  
TO BE COMPLETED BY PROJECT PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input checked="" type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input checked="" type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
<b>Note: Project Planner must check box below before proceeding.</b>	
<input type="checkbox"/>	Project is not listed. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project does not conform to the scopes of work. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves four or more work descriptions. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves less than four work descriptions. <b>GO TO STEP 6.</b>

**STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW  
TO BE COMPLETED BY PRESERVATION PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input checked="" type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input checked="" type="checkbox"/>	7. Addition(s), including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .



<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):
<input type="checkbox"/>	9. Other work that would not materially impair a historic district (specify or add comments):  (Requires approval by Senior Preservation Planner/Preservation Coordinator) _____
<input type="checkbox"/>	10. Reclassification of property status to Category C. (Requires approval by Senior Preservation Planner/Preservation Coordinator) a. Per HRER dated: _____ (attach HRER) b. Other (specify):
<b>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</b>	
<input type="checkbox"/>	Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. <b>GO TO STEP 6.</b>
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. <b>GO TO STEP 6.</b>
Comments (optional):	
Preservation Planner Signature: Shelley Caltagirone <small>Shelley Caltagirone Preservation Planner San Francisco Planning Department 455 Golden Gate Avenue, Suite 100 San Francisco, CA 94142-5049</small>	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION  
TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	Further environmental review required. Proposed project does not meet scopes of work in either (check all that apply): <input type="checkbox"/> Step 2 – CEQA Impacts <input type="checkbox"/> Step 5 – Advanced Historical Review <b>STOP! Must file an <i>Environmental Evaluation Application</i>.</b>				
<input checked="" type="checkbox"/>	No further environmental review is required. The project is categorically exempt under CEQA.				
<table border="1" style="width: 100%;"> <tr> <td style="width: 35%;">Planner Name: <b>mary woods</b></td> <td>Signature: <b>Mary Woods 12/5/2014</b></td> </tr> <tr> <td>Project Approval Action: <b>Planning Commission Hearing</b> <small>*If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</small></td> <td></td> </tr> </table>		Planner Name: <b>mary woods</b>	Signature: <b>Mary Woods 12/5/2014</b>	Project Approval Action: <b>Planning Commission Hearing</b> <small>*If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</small>	
Planner Name: <b>mary woods</b>	Signature: <b>Mary Woods 12/5/2014</b>				
Project Approval Action: <b>Planning Commission Hearing</b> <small>*If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</small>					
<p>Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.</p>					

Via Email: [iiz@pacbell.net](mailto:iiz@pacbell.net)

December 10, 2014

San Francisco Planning Commission  
C/O Mary Woods  
San Francisco, California 94115

Re: Planning Commission Hearing on 2655 Broderick  
WJE No. 2009.4685.0

Dear Commissioners and Ms. Woods:

In preparation for the Planning Commission Hearing, December 18, 2014, at which time you will consider Discretionary Review Cases 14.1497D (attached as Exhibit 1) and 14.1497D (attached as Exhibit 2), I would like to submit the following opinions on the property-line issues between 2701 Green and 2655 Broderick

There are four substantive issues in the long-running conflict between the owners of neighboring properties at 2701 Green and 2655 Broderick, only one of which is partially resolved. In short, those issues involve damage to the property at 2701 Green from various construction projects at 2655 Broderick, including:

- Surcharges against the retaining wall of 2701 Green property from a planter (partially resolved) rear deck stairs and foundation, and raised soil levels.
- Drainage directed against the property-line wall of 2701 Green due to landscaping
- Soil-wood contact that has led to decay to the property-line wood wall and framing of 2701 Green.
- Encroachment across the property line at the roof in conjunction with an illegal roof deck.

Each of the issues was either caused by or related to a code violation or unpermitted construction at 2655 Broderick, owned by Mr. Mark Casey, and each of them has encroached or caused property damaged at 2701 Green, owned by Mr. Irving Zaretsky. The two Discretionary Review applications before you involve all the issues.

**DR CASE NUMBER 14.1498D Concerning Permit Application 2013.0912.6711**

This Permit Application to legalize an existing exterior staircase is only one of several filed by Mr. Casey (including 2011.0912.4340, 2011.1201.9984, 2012.0319.6361, and 2013.0918.7182) attempting to legalize construction originally built under PA 8504468. The 1985 permit expired without a final inspection probably because the rear stairs violated the specific terms of the permit by encroaching 8 feet into the 25-foot back yard setback. In the most recent applications the applicant has begun maintaining that the existing stairs are permissible under Planning Code exemption, 36 (c) (14). It is not at all clear that the stairs squeeze by the encroachment issue; we have not been able to inspect them and we have no information that anyone from the city has, either.

However, potential setback encroachment is not the only reason why this question is before you. When the stairs were installed adjacent to the property line, they were founded on fill that added significant surcharge to the unreinforced concrete foundation wall of 2701 Green. The foundation and stairs themselves also imposed surcharge loads on the foundation wall of 2701 Green. A general view of the back stairs is shown in Figure 1. The additional soil fill and an unpermitted patio has directed water from 2655 Broderick against the walls and foundation of 2701 Green. Lastly, the soil fill was pushed against the wood framing of the wall causing decay of the wood siding and framing, as shown in Figures 2 and 3. The existence and cause of the

decay is not, as far as we know, disputed by Mr. Casey, but his experts have taken issue over the significance of the soil and foundation surcharge.

In 2010, among other recommendations, I recommended, that the stairs be removed, the wall and framing be repaired, and that the stairs be relocated or reconfigured to conform to various Building, Planning and Plumbing (drainage) Code requirements. My report, dated June 13, 2010 is attached as Exhibit 3. Instead of agreeing to these reasonable recommendations, the Mr. Casey has sought only to get the existing nonconforming construction permitted, leaving the question of repair of the decay 2701 Green and future protection of the wood wall unaddressed.

Subsequent investigations of the conditions along the property line by WJE, Frank Rollo, and Rodrigo Santos found that the surcharges due to the stairs, excess soil fill and a nearby large concrete planter (also built without a permit) apply additional bending and overturning stresses to the concrete foundation/retaining wall of 2701 Green. The concrete retaining wall is a 1913 unreinforced gravity wall braced by the first floor framing where the four story building rests on it at the east and west ends of the property, and is an 8-foot-high cantilevered wall in the approximately 40-foot-long central section. A geotechnical investigation for Mr. Casey by Patrick Shires confirmed substantial recent fill next to the retaining wall. The four test pits found that the recent fill (Af<sub>3</sub> by his terminology) ranged from at least 1 foot to approximately 2 feet. Mr. Shires' report dated February 3, 2012 is attached as Exhibit 4. Mr. Frank Rollo reviewed the information supplied by the Shires report, and provided his analysis in two letters, March 14, 2012, and August 28, 2012, attached as Exhibits 5 and 6.

Based on Mr. Shires' data, in the area of the planter, the combined surcharge from the fill and the planter increased the lateral pressure against the cantilevered portion of the wall by between 120% and 210%, and increased the overturning moment by between 310% and 560%. WJE's report, dated November 4, 2012, is attached as Exhibit 7. Without the planter load, and in the areas where the walls are braced by the building, the additional lateral load will be smaller—

but not insignificant. Also, in the braced area, there will be no overturning moment but the horizontal bending moment on the wall will be increased. No one knows the capacity of the wall, but in the cantilevered section there are indications that it has been subject to bending forces from the surcharge that have exceeded its cracking strength, including vertical cracks and deflection of the top of the wall. In addition, the recent soil fill has caused leakage into the basement garage of 2701 Green.

Lastly, the exposed wood-framed property line wall is vulnerable to weather and water, and Mr. Casey must remain cognizant of that in his landscaping choices. Care must be taken that sprinklers do not spray the wall, and trees should not be of a type that are not too close to the wall or so large they abrade the wall in the wind.

The parties have come to terms on the removal of the planter and construction of a new one that will not surcharge the retaining wall. The permit application for the new planter design is pending with the Building Department. However, the soil level remains contentious in terms of its surcharge on the wall of 2701 Green, soil-wood contact, and its effects on drainage.

I recommend that the Planning Commission instruct Mr. Casey to comply with the following:

- Remove the existing deck stairway and foundation.
- Provide access to Mr. Zaretsky's contractors to repair the existing wall decay of 2701 Green.
- Pay for the repair of the decay repair.
- Re-grade the soil adjacent to the property line to remove an average of 18-inches of fill.
- Provide positive drainage for runoff towards 2701 Green.
- If the stairs are to be reinstalled within the zone of influence of the retaining wall, design the footings so that they will not surcharge the wall.
- Landscaping must be kept small and held away from the property line wall.
- Irrigation must be drip or far enough from wall to not spray water on the wall

**CASE NUMBER 14.1497D. Permit Application 2013.0912.6709**

This Permit Application to legalize an illegal roof deck at 2655 Broderick is only one of several (including 8802566, 9009756, 9206713, 9216894, 9501127, 2012.0514.0394, P332891, and E140669). The building department notes on many of the permit applications and drawings required that the planned deck be deleted from the permit or the existing deck removed from the building. However, it is clear that the deck, rather than being deleted or removed was built and rebuilt multiple times. The current Permit Application seeks to legalize the existing roof deck with minor modifications to the south property-line parapet and east handrail.

The neighbors whose views and uses of their own properties are affected by the presence of this deck have consistently opposed it. The Building Department and Planning Commission should not approve this scofflaw roof deck after so very many episodes of noncompliance and in the face of neighborhood opposition.

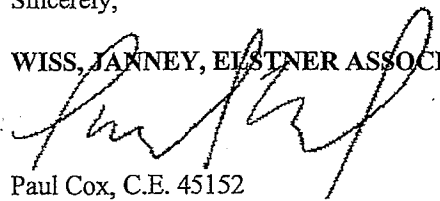
The second reason for this Discretionary Review is that the north property line parapet encroaches onto 2701 Green, preventing the owner of 2701 Green from servicing his property-line parapet and potentially creating a legal easement. The parapet wall framing was installed along the edge of the property-line wall of 2655 Broderick. Subsequent siding and trim on the south side of the parapet framing crosses the apparent property line by at least one inch, and perhaps as much as two inches. Figure 4 illustrates this condition.

I recommend that the Planning Commission instruct Mr. Casey to comply with the following:

- Remove the south parapet wall.
- If the deck is ultimately permitted, the new parapet wall is to be constructed within the property of 2655 Broderick.
- Comply with the detailed answer to Question 3, Page 9 of the Discretionary Review Application.

Sincerely,

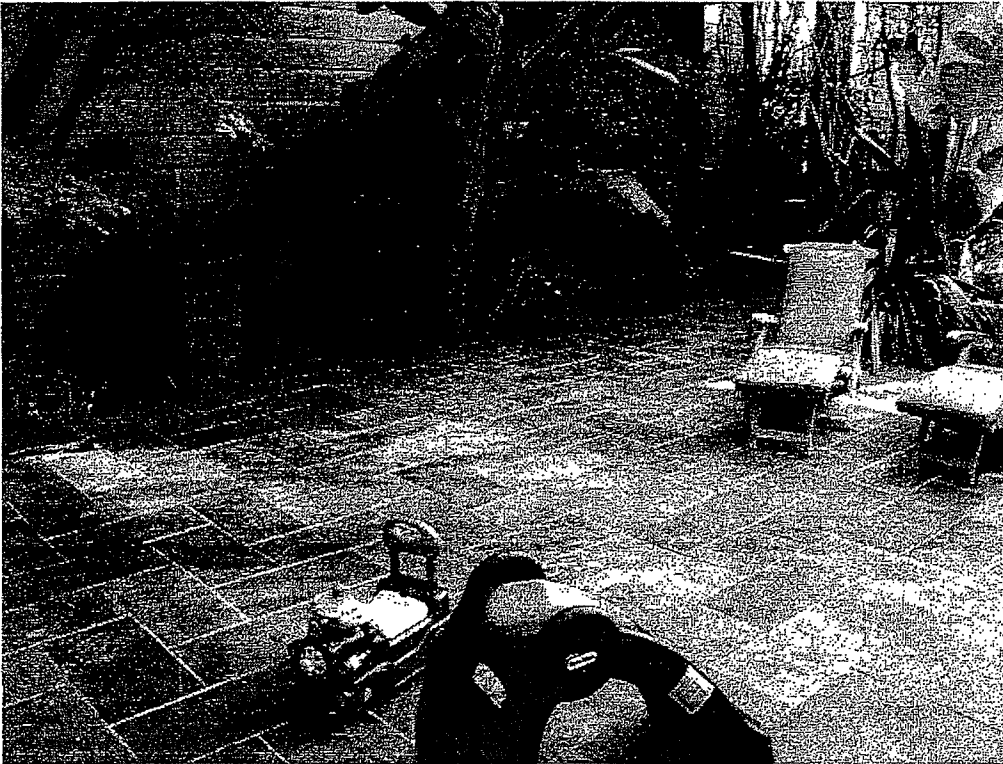
WISS, JANNEY, ELSTNER ASSOCIATES, INC.



Paul Cox, C.E. 45152

Associate Principal

**FIGURES**

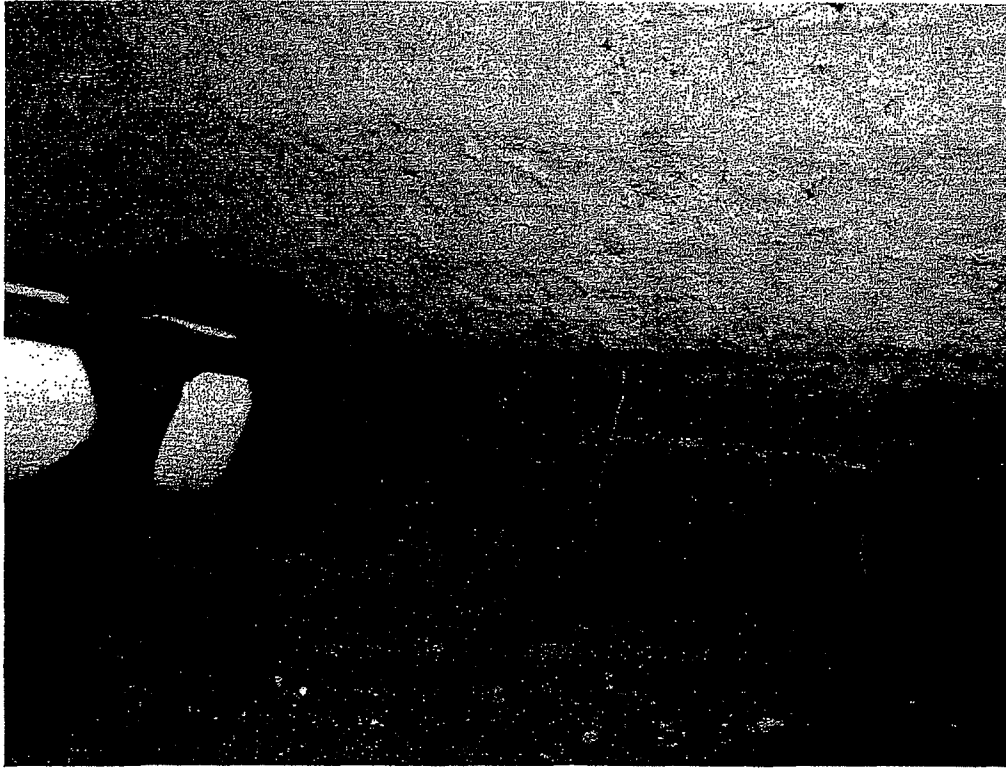


*Figure 1. View of deck stairs and property-line wall*



*Figure 2. Soil-wood contact between stair foundation and wood property-line wall has caused decay..*





*Figure 3. Soil-wood contact caused decay in property-line wall.*



*Figure 4. 2655 Broderick parapet wall siding and trim encroaching across property line.*

EXHIBITS:

- 1: Discretionary Review Application 14.1498D (Rear Stairs)
- 2: Discretionary Review Application 14.1497D (Roof Deck)
- 3: 2010 WJE Report
- 4: 2012 Shires Report
- 5: 2012-03 Rollo Letter
- 6: 2012-08 Rollo Letter
- 7: 2012 WJE Report

# APPLICATION FOR Discretionary Review

## 1. Owner/Applicant Information

DR APPLICANT'S NAME: Irving Zaretsky

DR APPLICANT'S ADDRESS: 2701 Green Street ZIP CODE: 94123 TELEPHONE: (415) 922-7609

PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME: Mark Casey

ADDRESS: 2655 Broderick Street ZIP CODE: 94123 TELEPHONE: ( )

CONTACT FOR DR APPLICATION:

Same as Above  Irving Zaretsky

ADDRESS: 3111 Jackson Street ZIP CODE: 94115 TELEPHONE: (415) 922-7609

E-MAIL ADDRESS: iiz@pacbell.net

## 2. Location and Classification

STREET ADDRESS OF PROJECT: 2655 Broderick Street ZIP CODE: 94123

CROSS STREETS: Green and Vallejo

ASSESSOR'S BLOCK/LOT: 0955 /002 LOT DIMENSIONS: LOT AREA (SQ FT): ZONING DISTRICT: RH-1/40-X HEIGHT/DULK DISTRICT:

## 3. Project Description

Please check all that apply  
Change of Use  Change of Hours  New Construction  Alterations  Demolition  Other

Additions to Building: Rear  Front  Height  Side Yard   
Residential

Present or Previous Use: Residential

Proposed Use: Residential

Building Permit Application No. 201309126711 Date Filed: September 12, 2013

14.14980

#### 4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### 5. Changes Made to the Project as a Result of Mediation

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.

SEE ATTACHMENT

.....

.....

.....

## Discretionary Review Request

In the space below and on separate paper, if necessary, please present facts sufficient to answer each question.

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.

SEE ATTACHMENT

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

SEE ATTACHMENT

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

SEE ATTACHMENT

~~14-14070~~

Discretionary Review Application for  
2655 Broderick, PA 2013.0912.6709  
September 24, 2014

↙  
incorrect  
permit #  
should  
be  
2013.  
09.12.  
6711

**Additional information:**

**Question 5 page 8:** This project was in litigation and withdrawn on October 24, 2012, at the request of Tom Hui and DBI to allow them to address the issues without "obstacles in the way" which was the term used by Tom Hui for the litigation.

Mediation was by pre-trial conference and mediation with Judge Quidachay in San Francisco Superior Court. None of the issues concerning this property were resolved. The case was to proceed to trial, but was withdrawn by the plaintiff, Mr. Zaretsky, without prejudice in order to allow the SF Building and Planning Departments to resolve the three Notices of Violation. The NOV related to this DR application is 201139322.

**Question 1 page 9:** The property adjacent to and downhill from the subject property at 2655 Broderick is 2701 Green Street, and they share a long property line. The uphill side of 2701 Green has a unreinforced concrete gravity wall that functions as a combination braced foundation and retaining wall for a portion of the building, and as an 8-foot high cantilevered retaining wall for that portion of the building that is a lightwell. In the last several years, this wall has been subjected to several unacceptable surcharges by construction on the 2655 Broderick property including (for purposes of this DR) non-conforming deck and stair structures in violation of the building permit and additional soil backfill. In addition, the soil backfill was placed in contact with the wood siding and framing of 2701 Green, which has caused decay. Submitted plans do not address a cure for the current surcharge and merely want to legalize existing structures and backfill that will continue to surcharge the retaining wall after completion.

In addition, the surcharges direct rainwater from the 2655 Broderick property towards and onto the building at 2701. The current Permit Application does not acknowledge, much less effectively address, drainage issues that have been caused by the surcharges.

The building at 2701 Green is listed as Historical Asset. It was built in 1913, is one of the oldest apartment buildings in Cow Hollow, and exhibits distinctive architecture. It has been maintained to period in exterior and interior finishes. It was previously owned by Judge Cabbanas who ordered the fires set along Van Ness after the 1906 Quake. The unreinforced concrete gravity wall on which this historic building rests cannot sustain the surcharge currently imposed on it by unpermitted, uninspected, and un-engineered improvements from the uphill property at 2655 Broderick, namely, as much as 2-foot of additional soil; trees whose root systems abut the retaining wall; the stair and deck footing; and the additional water exposure. All of these surcharges land within in the zone of influence of the wall (generally recognized to be within the area adjacent to the retaining wall equal to 1-1/2 times its height).

On a related matter, as presented, the drawings, notes, and calculations for this permit application are incorrect in substantial and consequential details. The original approved permit, PA #8504468/3, taken out by a previous owner, was clear that the stairs could not encroach into the backyard closer than 25 feet from the rear property

← incorrect  
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line. However, the stairs were built to within 17 feet of the property line, and the permit expired without a final inspection. The current permit application seeks to finesse the Planning Code violation utilizing an exception that allows encroachments for structures less than 3 feet above grade. It is my belief that the measurements for this exception, as presented in the permit application, are incorrect on their own merits; however, without access to the property, I have not been able to confirm this. Additionally, the assumption that the current grade is the datum for the 3-foot height measurement is erroneous since the current grade must be reduced to alleviate the stresses on the adjacent retaining wall.

All of the above considerations are reasons for this DR request: as presented, the permit application documents are inaccurate, fail to conform to the SF Building or Planning Codes, and do not address the surcharge and drainage issues that gave rise to the NOV.

**Question 2 page 9:** 2701 Green Street will be negatively affected if this permit is issued in the following ways: 1) The surcharges in this section of the mutual property line have increased loads on the unreinforced gravity wall far beyond those it can be expected to withstand without damage. 2) The water from irrigation and rain is directed onto the wood framing of 2701 Green Street, onto the Green Street rear yard and sidewalk, and onto the tradesmen side entrance and walkway of the adjoining property to the northwest along on Green Street.

**Question 3, page 9:**

1. The Planning Department or Building Department should field inspect the property at 2655 Broderick to confirm the accuracy of the drawings and measurements. The permits validity rests in large part upon correcting incorrect measurements. If the drawings are proven to be consequentially incorrect, encroachment of the stairs into the rear yard will likely require a variance. If for no other reason, the proposed exception to the 25-foot setback rule is violated by measuring the height of the stairs from the existing grade instead of the corrected soil height which will be approximately 2 feet below the current grade.
2. The drawings, must show that stairs and footings to the rear deck will be removed to provide access to repair the decay of the wall and framing of 2701 Green.
3. If the stairs are to be rebuilt within the zone of influence of the retaining wall, the new stair and deck footings and landings must be founded deeply enough to eliminate any surcharge on the wall. Engineering calculations should be supplied to support the proposed footing design.
4. The drawings must address the space between the firewall/balustrade and the wood wall of 2701 Green by installing a properly designed flashing to prevent water intrusion between them.
5. The drawings must show reduction of the soil level within the zone of influence to the historic soil level approximately 2 feet below its current height.
6. The drawings must present an engineered landscaping and drainage plan that eliminates water flow against or across the property at 2701 Green.
7. Drawings must show that all trees along the retaining wall be removed, except for those planted in the planter (submitted under separate permit), and stipulate that no trees or shrubs capable of growing higher than 10 feet will be planted along the

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2655  
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property line unless they are in a container engineered to prevent surcharge on retaining wall.

8. Drawings must stipulate that soil level adjacent to the retaining wall is to be kept at lower level in the future.
9. The plans should include the following notes:
  - A. ALL CONSTRUCTION TO BE CARRIED OUT BY LICENSED CONTRACTORS.
  - B. CONSTRUCTION IN CONTACT WITH 2701 GREEN TO OCCUR ONLY WITH THE CONSENT OF THE OWNER OF 2701 GREEN STREET.
  - C. CONSTRUCTION TO INCLUDE REMOVAL OF UP TO 2 FEET OF SOIL ADJACENT TO WALL TAPERING TO ZERO FEET 3-1/2 FEET FROM WALL.
  - D. OWNER OF 2701 GREEN STREET WILL BE ALLOWED ACCESS ANY REASONABLE TIMES TO INSPECT, REPAIR, AND PAINT PROPERTY LINE BLIND WALL AND UNDERLYING FRAMING AFTER THE DECK STAIRS, FOOTING, AND LANDING, HAVE BEEN REMOVED, AND THE GRADE HAS BEEN LOWERED.
  - E. THE OWNER OF 2701 GREEN STREET AND HIS PROFESSIONAL REPRESENTATIVES AND CONTRACTORS WILL BE GIVEN REASONABLE ACCESS TO THE SITE FOR INSPECTIONS AND REQUIRED REPAIRS THROUGHOUT THE CONSTRUCTION.
  - F. ALL FINAL PLANS FOR AND CHANGES OF DECK AND STAIRS ARE TO BE PROVIDED TO OWNER OF 2701 GREEN STREET FOR REVIEW PRIOR TO ISSUANCE OF PERMIT OR COMMENCEMENT OF CONSTRUCTION.
  - G. WOODEN WALL ALONG PORTION OF RETAINING WALL ADJACENT TO LIGHTWELL IS TO BE REPLACED BY OWNER OF 2701 GREEN STREET, BUT PAID FOR BY OWNER OF 2655 BRODERICK, PER PREVIOUS AGREEMENT.



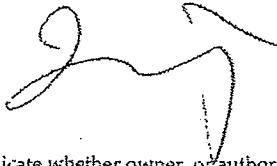
14.1498D

### Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required

Signature:



Date:

9/25/14

Print name, and indicate whether owner, or authorized agent:

owner  
Owner / Authorized Agent (circle one)

14-14980

# Discretionary Review Application Submittal Checklist

Applications submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and signed by the applicant or authorized agent.

REQUIRED MATERIALS (please check correct column)	OR APPLICATION
Application, with all blanks completed	<input checked="" type="checkbox"/>
Address labels (original), if applicable	<input checked="" type="checkbox"/>
Address labels (copy of the above), if applicable	<input checked="" type="checkbox"/>
Photocopy of this completed application	<input type="checkbox"/>
Photographs that illustrate your concerns	<input type="checkbox"/>
Convenant or Deed Restrictions	<input type="checkbox"/>
Check payable to Planning Dept.	<input checked="" type="checkbox"/>
Letter of authorization for agent	<input checked="" type="checkbox"/>
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	<input type="checkbox"/>

- NOTES:
- Required Material.
  - Optional Material.
  - Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

For Department Use Only  
Application received by Planning Department:

By: *Brian Bell*

Date: 9/25/14

14-14980



**SAN FRANCISCO  
PLANNING DEPARTMENT**

1650 Mission Street Suite 400 San Francisco, CA 94103

**NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)**

On September 12, 2013, the Applicant named below filed Building Permit Application No. 2013.09.12:6711 with the City and County of San Francisco.

PROPERTY INFORMATION		APPLICANT INFORMATION	
Project Address:	2655 Broderick Street	Applicant:	Mark Casey c/o Craig Nikifas
Cross Street(s):	Green and Vallejo Streets	Address:	2655 Broderick Street
Block/Lot No.:	0955/002	City, State:	San Francisco, CA 94123
Zoning District(s):	RH-1 / 40-X	Telephone:	(415) 810-5166

You are receiving this notice as a property owner or resident within 150 feet of the proposed project. You are not required to take any action. For more information about the proposed project, or to express concerns about the project, please contact the Applicant listed above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request the Planning Commission to use its discretionary powers to review this application at a public hearing. Applications requesting a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown below, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

PROJECT SCOPE		
<input type="checkbox"/> Demolition	<input type="checkbox"/> New Construction	<input checked="" type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input checked="" type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Residential	Residential
Front Setback	None	No change
Side Setbacks	None	No change
Building Depth	57 feet	No change
Rear Yard	43 feet	No change
Building Height	33 feet	No change
Number of Stories	3	No change
Number of Dwelling Units	1	No change
Number of Parking Spaces	1	No change
PROJECT DESCRIPTION		
The proposal is to modify stairs constructed under Building Permit Application No. 8504468. See attached plans.		
The issuance of the building permit by the Department of Building Inspection or the Planning Commission project approval at a discretionary review hearing would constitute as the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.		

For more information, please contact Planning Department staff:

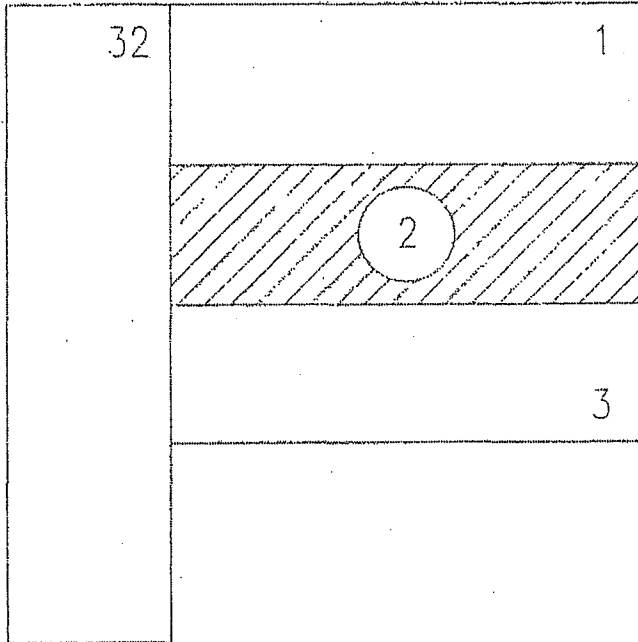
Planner: Mary Woods  
 Telephone: (415) 558-6315  
 E-mail: mary.woods@sfgov.org  
 中文詢問請電: (415) 575-9010

Notice Date: 8/26/2014  
 Expiration Date: 9/25/2014

Para información en Español llamar al: (415) 575-9010

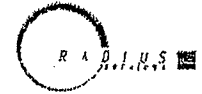
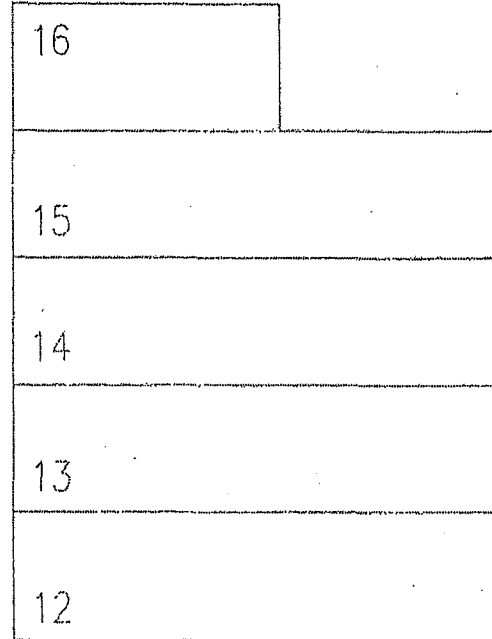
GREEN STREET

BLOCK 955



BRODERICK STREET

BLOCK 954



425 Francisco Street, Suite 100  
 San Francisco, CA 94102  
 (415) 391-4774

BLOCK 955  
 LOT 2

San Francisco, CA



JOB NO:	DATE: 140823
0985002T	DRAWN: DC
	CHECKED: DC

DISCRETIONARY  
 REVIEW  
 AREA MAP

14.14.03

The information contained herein was obtained from sources that we deemed reliable and current at the time of preparation. We have no reason to doubt its accuracy but we do not guarantee it.

942

14 14980

RADIUS SERVICES 1221 HARRISON ST #18 SAN FRANCISCO CA 94103 415-391-4775

BLOCK LOT	OWNER	OADDR	CITY	STATE	ZIP
0001 001	RADIUS SERVICES NO. 0955002T	3111 JACKSON ST	ZONECON	14	0923
0001 002					
0001 003	RADIUS SERVICES	1221 HARRISON ST #18	SAN FRANCISCO	CA	94103
0001 004	IRVING ZARETSKY	2555 32ND AVE	SAN FRANCISCO	CA	94116
0001 005					
0954 012	KALES TRS	2634 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 013	MICHAEL KRAUTKRAMER	2640 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 014	WOEBER TRS	2646 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 015	MARY-ANNA RAE	PO BOX 31515	SAN FRANCISCO	CA	94131-0515
0954 015	OCCUPANT	2652 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 016	BEN-HALIM HAYA	2697 GREEN ST	SAN FRANCISCO	CA	94123-4606
0955 001	KARDOS-ZARETSKY	2701 GREEN ST	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #1	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #2	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #3	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #4	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #5	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #6	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #7	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #8	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #9	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #10	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #11	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #12	SAN FRANCISCO	CA	94123-4639
0955 002	CASEY TRS	2655 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955 003	CLAUDIO ANGELI TRS	2645 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955 032	KIESELHORST TRS	2731 GREEN ST	SAN FRANCISCO	CA	94123-4608
9999 999					

CASE NUMBER  
For Staff Use Only

14.1497D

# APPLICATION FOR Discretionary Review

## 1. Owner/Applicant Information

DR APPLICANT'S NAME: Irving Zaretsky

DR APPLICANT'S ADDRESS: 2701 Green Street ZIP CODE: 94123 TELEPHONE: (415) 922-7609

PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME:

Mark Casey  
ADDRESS: 2655 Broderick Street ZIP CODE: 94123 TELEPHONE: ( )

CONTACT FOR DR APPLICATION:

Same as Above  Irving Zaretsky  
ADDRESS: 3111 Jackson Street ZIP CODE: 94115 TELEPHONE: (415) 922-7609  
E-MAIL ADDRESS: iiz@pacbell.net

## 2. Location and Classification

STREET ADDRESS OF PROJECT: 2655 Broderick Street ZIP CODE: 94123

CROSS STREETS: Green and Vallejo

ASSESSORS BLOCK/LOT: LOT DIMENSIONS: LOT AREA (SQ FT): ZONING DISTRICT: HEIGHT/BULK DISTRICT:

## 3. Project Description

Please check all that apply

Change of Use  Change of Hours  New Construction  Alterations  Demolition  Other

Additions to Building: Rear  Front  Height  Side Yard

Present or Previous Use: Residential

Proposed Use: Residential

Building Permit Application No. 2013.0912.6709

Date Filed: September 12, 2013

14. 14970

4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

5 Changes Made to the Project as a Result of Mediation

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.

SEE ATTACHMENT

.....

.....

.....

.....

## Discretionary Review Request

In the space below and on separate paper, if necessary, please present facts sufficient to answer each question.

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.

SEE ATTACHMENT

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

SEE ATTACHMENT

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

SEE ATTACHMENT



~~14-1490B~~

Discretionary Review Application for  
2655 Broderick, PA.201309126711  
September 24, 2014

← incorrect  
permit #,  
should  
be  
2013.  
09.12.  
6709

Additional information:

**Question 5 page 8:** This project was in litigation and withdrawn on October 24, 2012, at the request of Tom Hui and DBI to allow them to address the issues without "obstacles in the way" which was the term used by Tom Hui for the litigation.

Mediation was by pre-trial conference and mediation with Judge Quidachay in San Francisco Superior Court. None of the issues concerning this property were resolved. The case was to proceed to trial, but was withdrawn by the plaintiff, Mr. Zaretsky, without prejudice in order to allow the SF Building and Planning Departments to resolve the three Notices of Violation. The NOV related to this DR application is 201168973.

**Question 1 page 9:** The property adjacent to and downhill from the subject property at 2655 Broderick is 2701 Green Street, and they share a long property line. 2655 Broderick has a roof deck specifically denied in two earlier permit applications, 8925489 and 9009756. The then owners ignored the City's denial and built the deck anyway. This deck included a roof-top hot tub and structural supports for it--all without drawings, permits, or inspections. Later, two separate permits were issued to remove the illegal deck--permit applications, 9206713 and 9216894. Those permits, too, were ignored. Moreover, the current owner has removed the hot tub, the old deck, and the old wind screens, and completely rebuilt the deck and screens without a permit or inspections.

Thus, for a very long time, the law has not been enforced. The current application seeks to legalize the existing illegal and non-conforming construction. The owners' failure to abide by the City's instructions, and lack of prior enforcement by the City alone are reasons enough for the Planning Department to undergo a thorough review of this permit application. To do otherwise will be to encourage scofflaws.

A second reason for this Discretionary Review Request is to address the current permit application's failure to address the existing deck's encroachment across the property line with 2701 Green Street. The existing windscreen is mounted on top of the property-line curb and the siding boards are over the outer edge of the parapet of 2701 Green Street, preventing access to the sheet metal coping. No permit should be issued authorizing encroachment onto a neighboring property.

Lastly, the previous permits denied authorization to install a roof deck at 2655 Broderick at least in part because all the neighbors opposed it. They still do. The City has a responsibility to consider the impact of new construction on the neighbors, and at this point, only a discretionary review stands in the way of this permit.

**Question 2 page 9:** 2701 Green Street will be negatively affected if this permit is issued in the following ways: 1) The encroachment impinges onto the neighboring property denying the owner of 2701 access to his property, and if not reversed, will effectively give the owner of 2655 Broderick an easement. 2) The encroachment prevents the owner of 2701 from being able to service coping of his parapet.

←  
income  
permit  
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**Question 3, page 9:**

1. The Planning Department or Building Department should field inspect the property at 2655 Broderick to confirm the accuracy of the drawings and measurements. The permits validity rests in large part upon correcting incorrect measurements. If the drawings are proven to be consequentially incorrect, they should be corrected prior to issuance of the permit.
2. The drawings should show removal of the existing property-line screen wall and, if the deck is approved, its relocation fully behind the property line.
3. If a permit for the roof deck is issued, the drawings should specify that a hot tub is specifically excluded.
4. Once the wall is removed or relocated, the drawings should show a properly designed coping and counterflashing to cover the parapet of 2701 Green Street and the space between the buildings.
5. The plans should include the following notes:
  - A. ALL CONSTRUCTION TO BE CARRIED OUT BY LICENSED CONTRACTORS.
  - B. CONSTRUCTION IN CONTACT WITH 2701 GREEN TO OCCUR ONLY WITH THE CONSENT OF THE OWNER OF 2701 GREEN STREET.
  - C. CONTRACTOR OR INSPECTOR ACCESS TO THE ROOF OF 2701 GREEN STREET IS TO BE MADE ONLY WITH THE SPECIFIC PERMISSION OF THE OWNER OF 2701 GREEN STREET. SUCH PERMISSION WILL NOT BE UNREASONABLY WITHHELD.
  - D. THE ROOF OF 2701 GREEN STREET WILL BE FULLY PROTECTED IN THE AREA OF ANY CONSTRUCTION.
  - E. THE ROOF OF 2701 GREEN STREET WILL NOT BE USED FOR STAGING OR STORAGE OF MATERIALS.
  - F. THE OWNER OF 2701 GREEN STREET AND HIS PROFESSIONAL REPRESENTATIVES AND CONTRACTORS WILL BE GIVEN REASONABLE ACCESS TO THE SITE FOR INSPECTIONS AND REQUIRED REPAIRS THROUGHOUT THE CONSTRUCTION.
  - G. ALL FINAL PLANS FOR AND CHANGES OF ROOF DECK ARE TO BE PROVIDED TO OWNER OF 2701 GREEN STREET FOR REVIEW PRIOR TO ISSUANCE OF PERMIT OR COMMENCEMENT OF CONSTRUCTION.

14-1970

## Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature:



Date:

9/25/14

Print name, and indicate whether owner, or authorized agent:

*Archer*

Owner / Authorized Agent (circle one)

# Discretionary Review Application Submittal Checklist

Applications submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and signed by the applicant or authorized agent.

REQUIRED MATERIALS (please check correct column)	DR APPLICATION
Application, with all blanks completed	<input checked="" type="checkbox"/>
Address labels (original), if applicable	<input checked="" type="checkbox"/>
Address labels (copy of the above), if applicable	<input checked="" type="checkbox"/>
Photocopy of this completed application	<input checked="" type="checkbox"/>
Photographs that illustrate your concerns	<input type="checkbox"/>
Covenant or Deed Restrictions	<input type="checkbox"/>
Check payable to Planning Dept.	<input checked="" type="checkbox"/>
Letter of authorization for agent	<input checked="" type="checkbox"/>
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	<input type="checkbox"/>

NOTES:  
 Required Material  
 Optional Material  
 Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

For Department Use Only  
 Application received by Planning Department:

By: *[Signature]*

Date: *9/25/14*



# SAN FRANCISCO PLANNING DEPARTMENT

14-14970

1650 Mission Street Suite 400 San Francisco, CA 94103

## NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)

On September 12, 2013, the Applicant named below filed Building Permit Application No. 2013.09.12.6709 with the City and County of San Francisco.

PROPERTY INFORMATION		APPLICANT INFORMATION	
Project Address:	2655 Broderick Street	Applicant:	Mark Casey c/o Craig Nikitas
Cross Street(s):	Green and Vallejo Streets	Address:	2655 Broderick Street
Block/Lot No.:	0955/002	City, State:	San Francisco, CA 94123
Zoning District(s):	RH-1 / 40-X	Telephone:	(415) 810-5166

You are receiving this notice as a property owner or resident within 150 feet of the proposed project. You are not required to take any action. For more information about the proposed project, or to express concerns about the project, please contact the Applicant listed above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request the Planning Commission to use its discretionary powers to review this application at a public hearing. Applications requesting a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown below, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

PROJECT SCOPE		
<input type="checkbox"/> Demolition	<input type="checkbox"/> New Construction	<input checked="" type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input checked="" type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input checked="" type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Residential	Residential
Front Setback	None	No change
Side Setbacks	None	No change
Building Depth	57	No change
Rear Yard	43 feet	No change
Building Height	33 feet	No change
Number of Stories	3	No change
Number of Dwelling Units	1	No change
Number of Parking Spaces	1	No change
PROJECT DESCRIPTION		
The proposal is to (1) legalize an existing 425 square-foot roof deck and stair penthouse; (2) add an one-hour fire-rated parapet wall along the south property line of the roof deck; and (3) modify the existing parapet wall/guardrail from 38 inches to 42 inches in height. See attached plans.		
The issuance of the building permit by the Department of Building Inspection or the Planning Commission project approval at a discretionary review hearing would constitute as the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.		

For more information, please contact Planning Department staff:

Planner: Mary Woods

Telephone: (415) 558-6315

E-mail: [mary.woods@sfgov.org](mailto:mary.woods@sfgov.org)

中文詢問請電: (415) 575-9010

Notice Date: 8/26/2014

Expiration Date: 9/25/2014

Para información en Español llamar al: (415) 575-9010

RADIUS SERVICES BELIEVES THAT  
THE INFORMATION CONTAINED HEREIN

RADIUS SERVICES BELIEVES THAT  
THE INFORMATION CONTAINED HEREIN

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WHILE NOT GUARANTEED HAS BEEN  
SECURED FROM SOURCES DEEMED  
RELIABLE

0000/008  
WHILE NOT GUARANTEED HAS BEEN  
SECURED FROM SOURCES DEEMED  
RELIABLE

0001/001  
RADIUS SERVICES NO. 0955002T  
3111 JACKSON ST  
TENECON 14 0923

0001/001  
RADIUS SERVICES NO. 0955002T  
3111 JACKSON ST  
TENECON 14 0923

0001/002

0001/002

0001/003  
RADIUS SERVICES  
1221 HARRISON ST #12  
SAN FRANCISCO CA 94103

0001/003  
RADIUS SERVICES  
1221 HARRISON ST #12  
SAN FRANCISCO CA 94103

0001/004  
IRVING ZARETSKY  
2555 32ND AVE  
SAN FRANCISCO CA 94116

0001/004  
IRVING ZARETSKY  
2555 32ND AVE  
SAN FRANCISCO CA 94116

0001/005

0001/005

0954/012  
KALES TRS  
2634 BRODERICK ST  
SAN FRANCISCO CA 94123-4605

0954/012  
KALES TRS  
2634 BRODERICK ST  
SAN FRANCISCO CA 94123-4605

0954/013  
MICHAEL KRAUTKRAMER  
2640 BRODERICK ST  
SAN FRANCISCO CA 94123-4605

0954/013  
MICHAEL KRAUTKRAMER  
2640 BRODERICK ST  
SAN FRANCISCO CA 94123-4605

0954/014  
WCEBER TRS  
2646 BRODERICK ST  
SAN FRANCISCO CA 94123-4605

0954/014  
WCEBER TRS  
2646 BRODERICK ST  
SAN FRANCISCO CA 94123-4605

0954/015  
MARY-ANNA RAE  
PO BOX 31515  
SAN FRANCISCO CA 94131-0515

0954/015  
MARY-ANNA RAE  
PO BOX 31515  
SAN FRANCISCO CA 94131-0515

0955/001  
KARDOS-ZARETSKY  
2701 GREEN ST  
SAN FRANCISCO CA 94123-4639

0955/001  
OCCUPANT  
2701 GREEN ST #1  
SAN FRANCISCO CA 94123-4639

0955/001  
OCCUPANT  
2701 GREEN ST #2  
SAN FRANCISCO CA 94123-4639

0955/001  
OCCUPANT  
2701 GREEN ST #3  
SAN FRANCISCO CA 94123-4639

0955/001  
OCCUPANT  
2701 GREEN ST #4  
SAN FRANCISCO CA 94123-4639

0955/001  
OCCUPANT  
2701 GREEN ST #5  
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OCCUPANT  
2701 GREEN ST #10  
SAN FRANCISCO CA 94123-4639

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KARDOS-ZARETSKY  
2701 GREEN ST  
SAN FRANCISCO CA 94123-4639

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OCCUPANT  
2701 GREEN ST #1  
SAN FRANCISCO CA 94123-4639

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2701 GREEN ST #2  
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2701 GREEN ST #11  
SAN FRANCISCO CA 94123-4637

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0755/001  
OCCUPANT  
2701 GREEN ST #11  
SAN FRANCISCO CA 94123-4637

0955/002  
DARREY TRS  
2655 BRODERICK ST  
SAN FRANCISCO CA 94115-4604

0955/003  
CLAUDIO ANGELI TRS  
2655 BRODERICK ST  
SAN FRANCISCO CA 94115-4604

0955/002  
KRISELHURST TRS  
2701 GREEN ST  
SAN FRANCISCO CA 94123-4637

0955/002

0755/001  
OCCUPANT  
2701 GREEN ST #11  
SAN FRANCISCO CA 94123-4637

0955/001  
OCCUPANT  
2701 GREEN ST #12  
SAN FRANCISCO CA 94123-4637

0955/002  
DARREY TRS  
2655 BRODERICK ST  
SAN FRANCISCO CA 94115-4604

0955/003  
CLAUDIO ANGELI TRS  
2655 BRODERICK ST  
SAN FRANCISCO CA 94115-4604

0955/002  
KRISELHURST TRS  
2701 GREEN ST  
SAN FRANCISCO CA 94123-4637

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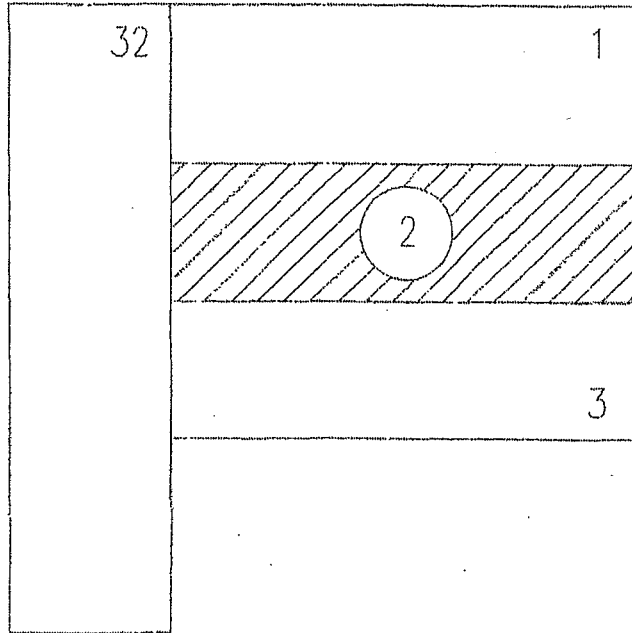


14-14970

BLOCK LOT	OWNER	OADDR	CITY	STATE	ZIP
0001 001	RADIUS SERVICES NO. 0955002T	3111 JACKSON ST	ZONECON	14	0923
0001 002					
0001 003	RADIUS SERVICES	1221 HARRISON ST #18	SAN FRANCISCO	CA	94103
0001 004	IRVING ZARETSKY	2555 32ND AVE	SAN FRANCISCO	CA	94116
0001 005					
0954 012	KALES TRS	2634 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 013	MICHAEL KRAUTKRAMER	2640 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 014	WOEBER TRS	2646 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 015	MARY-ANNA RAE	PO BOX 31515	SAN FRANCISCO	CA	94131-0515
0954 016	OCCUPANT	2652 BRODERICK ST	SAN FRANCISCO	CA	94123-4606
0954 016	BEN-HALIM HAYA	2691 GREEN ST	SAN FRANCISCO	CA	94123-4606
0955 001	KARDOS-ZARETSKY	2701 GREEN ST	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #1	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #2	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #3	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #4	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #5	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #6	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #7	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #8	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #9	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #10	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #11	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #12	SAN FRANCISCO	CA	94123-4639
0955 002	CASEY TRS	2655 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955 002	CLAUDIO ANGELI TRS	2646 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955 032	KIESELHORST TRS	2731 GREEN ST	SAN FRANCISCO	CA	94123-4608
9999 999					

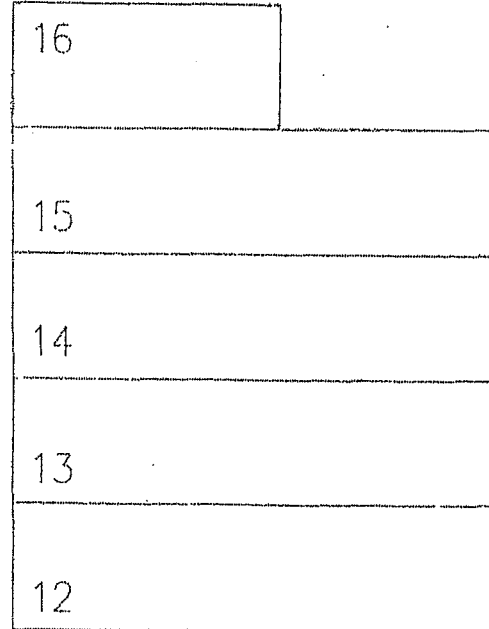
GREEN STREET

BLOCK 955



BRODERICK STREET

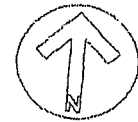
BLOCK 954



149970  
 (415) 397-1170

BLOCK 955  
 LOT 2

San Francisco, CA



956

JOB NO.	DATE: 140923
0855002T	DRAWN: DC
	CHECKED: DC

DISCRETIONARY  
 REVIEW  
 AREA MAP

14.14970

The information contained herein has been obtained from sources that we deemed reliable and current at the time of preparation. We have no reason to doubt its accuracy but we do not guarantee it.



February 3, 2012  
E5270

Mr. James Biernat, Esq.  
JAMES BIERNAT ATTORNEY AT LAW  
2121 Ardmore Road  
San Carlos, California 93446

**SUBJECT: Geotechnical Investigation of Northern Side Yard Improvements**  
**RE: 2655 Broderick Street**  
San Francisco, California

Dear Mr. Biernat:

With this letter report, Cotton, Shires and associates, Inc. (CSA) is pleased to provide you with the results of our geotechnical investigation of improvements made to the northern side yard at 2655 Broderick Street in San Francisco, California. In this letter, we discuss the scope of work we conducted, our findings and conclusions, recommendations and the limitations of our investigation.

### SCOPE OF WORK

As part of our investigation, we conducted the following tasks:

- Review of regional and site specific documents,
- Subsurface exploration (hand-excavated test pits),
- Laboratory testing of representative samples,
- Engineering analysis of the resulting data,
- Formulation of conclusions and recommendations, and
- Preparation of this letter report.

### FINDINGS

#### Background

Based on our review of documents, it appears that the lots comprising 2655 Broderick Street and the adjoining lot to the north, 2701 Green Street, were created

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**Northern California Office**  
330 Village Lane  
Los Gatos, CA 95030-7218  
(408) 354-5542 • Fax (408) 354-1852

**Central California Office**  
6417 Dogtown Road  
San Andreas, CA 95249-9640  
(209) 736-4252 • Fax (209) 736-1212

**Southern California Office**  
550 St. Charles Drive, Suite 108  
Thousand Oaks, CA 91360-3995  
(805) 497-7999 • Fax (805) 497-7933

approximately 100 years ago by cutting on the upslope (south) sides and filling on the downslope (north) sides, and constructing a concrete gravity retaining wall of about 7.5 to 7.9 feet in height along the property line between the two lots. A single family residence was constructed on the Broderick property and an apartment building was constructed on the Green Street property. Subsequently (after 1990), additional improvements were constructed on the Broderick property, including a deck with a rear staircase and a concrete planter box containing trees along the northern side yard of 2655 Broderick Street. Concern has been expressed by the owner of the Green Street property regarding potential impacts that the loads these structures might place on the old gravity retaining wall at the property line. Consequently, we conducted this geotechnical investigation to evaluate that concern.

### Subsurface Exploration

We excavated a total of four (4) test pits (TP-1 through TP-4) in the northern side yard of 2655 Broderick Street in the locations shown on Figure 1 (attached).

TP-1 (Figure 2) was located along the western end of the deck stairs landing. Due to abundant large tree roots, this test pit was terminated at a depth of about 1.3 feet. The concrete footing for the landing extended deeper than the test pit and the earth materials encountered were silty sandy artificial fill (designated Af3).

TP-2 was located at the east end of the deck staircase footing. Because irrigation lines were encountered in this test pit, it was abandoned and backfilled without logging it.

Test Pit TP-3 (Figure 3) was located at the western end of the concrete planter box and extended to a depth of about 3.9 feet. Bedrock (sandstone of the Franciscan Complex) was encountered at a depth of about 3.5 feet beneath the ground surface. We encountered three types of artificial fill (designated Af1, Af2 and Af3) in this test pit. Af1, the deepest artificial fill, consisted of silty sand with clay. This fill abutted and truncated Quaternary dune sand which was found above the bedrock with a thickness of about 1 foot. Above the Af3 and dune sand was Af2, artificial fill consisting of silty sand containing significant fines content. The footing for the planter box was founded in this fill material with additional artificial fill, Af1, placed on the retaining wall side of the planter box against the bottom of the wooden fence constructed on top of the retaining wall. The Af3 fill consisted of silty sand. Test pit

TP-4 (Figures 4 and 5) was excavated along the side of the middle of the staircase footing to a depth of about 3.9 feet. In it, we encountered the three fill types discussed above as well as Quaternary dune sand over native sandstone bedrock of the Franciscan Complex, encountered at a depth of about 3.6 feet. The dune sand tapered down to nil thickness on the side of the test pit nearest the retaining wall. On this side of the test pit,

Af1 underlies the deck staircase footing above the bedrock with a thickness of about 1 foot. A thickness of about 0.5 foot of Af2 is directly under the staircase footing and above the Af1 material.

### Laboratory Testing

Laboratory tests were conducted on representative soil samples of the earth materials encountered in the test pits, including moisture content, wet and dry unit weight determination, Atterberg limits and direct shear strength testing. Based on these tests, the deepest artificial fill, Af1, was found to have moisture contents of 12.6% to 15.8%, wet unit weights of 114.8 to 126.3 pcf, dry unit weights of 101.0 to 109.1 pcf, a liquid limit of 43 and plasticity index (PI) of 27 and a drained shear strength of  $\phi = 28.1$  degrees, cohesion = 275 psf. Af2 was found to have moisture contents of 16.4% to 19.4%, wet unit weights of 126.3 to 129.7 pcf, dry unit weights of 106.7 to 109.2 pcf and a drained shear strength of  $\phi = 27$  degrees, cohesion = 500 psf. Because it did not underlie footings, Af3 was not tested. The underlying bedrock was found to have moisture contents of 8.9% to 14.2%, wet unit weights of 124.4 to 138.1 pcf, dry unit weights of 114.2 to 124.3 pcf and a drained shear strength of  $\phi = 37.0$  degrees, cohesion = 1,700 psf.

### Engineering Analysis

Staircase Footing - Based on the strength and distribution of earth materials beneath the staircase footing, most of the load from the footing is transferred to the sandstone bedrock beneath the footing and any lateral pressure exerted on the existing retaining wall is minimal. Even neglecting soil cohesion, the lateral load from the stairs distributed to the retaining wall would only be on the order of 55 psf over the upper 3.5 feet of the retaining wall and nil below that due to the presence of the sandstone bedrock.

Planter Box - Based on the strength and distribution of earth materials beneath the planter box, most of the load from the box is transferred to the sandstone bedrock beneath the footing and any lateral pressure exerted on the existing retaining wall is minimal. Even neglecting soil cohesion, the lateral load from the planter box distributed to the retaining wall would only be on the order of 140 psf over the upper 3.5 feet of the retaining wall and nil below that due to the presence of the sandstone bedrock.

### CONCLUSIONS

Based on our subsurface exploration, laboratory testing and engineering analysis of loading conditions in the vicinity of the northern side yard of 2655 Broderick Street, it is our opinion that any lateral loads distributed from the deck staircase footing and the

planter box on the retaining wall are minimal and therefore likely easily supported by the retaining wall (thus explaining the apparent lack of significant distress observed in the retaining wall). However, the design details of this wall are unknown and likely minimal in terms of steel reinforcing (due to the age of the wall) and while the wall apparently performed well during the Loma Prieta earthquake of 1989, the wall has yet to be subjected to significant seismic loading with these additional structures (that were reportedly built after 1990) in place.

### RECOMMENDATIONS

While we are of the opinion that the deck staircase footing and planter box represent minimal lateral loads to the retaining wall, for the reason discussed above (and for conservatism), we recommend that these structures be underpinned into the sandstone bedrock. There is approximately 1.7 feet thickness of artificial fill soil beneath the deck staircase footing and 2.2 to 2.5 feet thickness of artificial fill soil beneath the planter box until sandstone bedrock is encountered. We recommend that reinforced concrete underpins with haunches extending under and dowelled into (minimum 6 inches epoxied embedment) the existing footings be installed at minimum 6 feet edge to edge beneath these structures. Underpins should extend a minimum of 2 feet into the sandstone bedrock. All artificial fill should be removed between the planter box and the top of the retaining wall and underpins should be located at each end of the planter box adjacent to the retaining wall as well as midway along the planter box on the deck side. Underpins and haunches should be steel reinforced concrete with a minimum of 4 number 4 bars vertical in each underpin and horizontal in each haunch (with minimum 3 inches concrete cover over the steel). Concrete should have a minimum 28-day unconfined compressive strength of 3,000 psi. Shop drawings of all underpins and haunches should be provided by the contractor and approved by the engineer prior to construction. All excavations should be inspected by the engineer prior to pouring of concrete.

### LIMITATIONS

Our services consist of professional opinions and conceptual recommendations made in accordance with generally accepted engineering geology and civil and geotechnical engineering principles and practices. No warranty, expressed or implied, or merchantability or fitness, is made or intended in connection with our work, by the proposal for consulting or other services, or by the furnishing of oral or written reports or findings.

COTTON, SHIRES AND ASSOCIATES, INC.

We trust that this provides you with the information that you need at this time.  
If you have any questions, or need additional information, please contact us.

Very truly yours,

**COTTON, SHIRES AND ASSOCIATES, INC.**



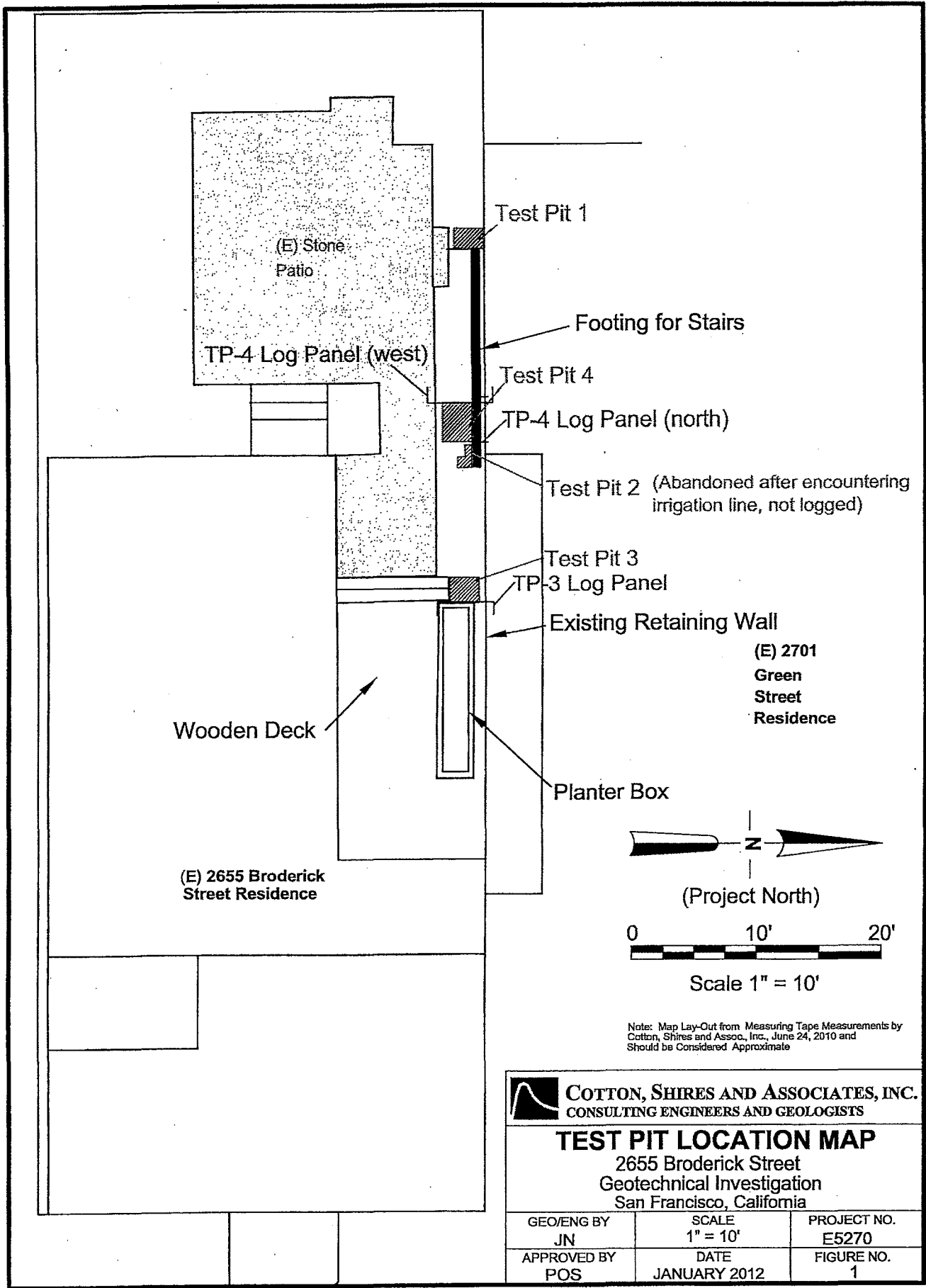
Patrick O. Shires  
Senior Principal Geotechnical Engineer  
GE 770



POS:st

Attachments: Figures 1 through 5 and Appendix A (Laboratory Testing)

**COTTON, SHIRES AND ASSOCIATES, INC.**




**COTTON, SHIRES AND ASSOCIATES, INC.**  
 CONSULTING ENGINEERS AND GEOLOGISTS

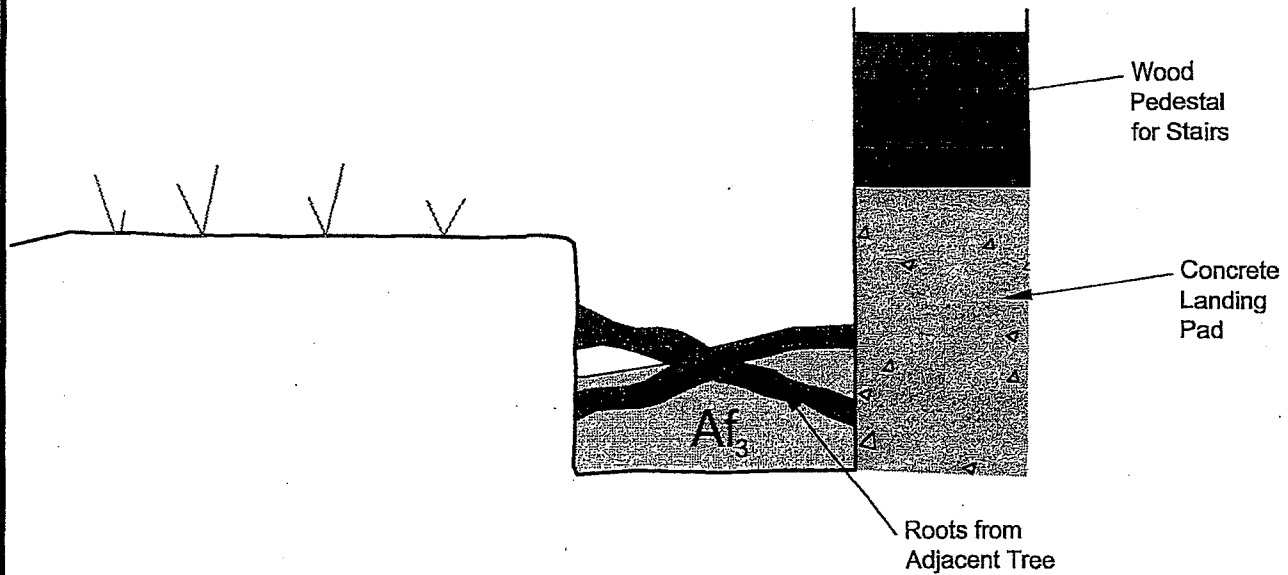
**TEST PIT LOCATION MAP**  
 2655 Broderick Street  
 Geotechnical Investigation  
 San Francisco, California

GEO/ENG BY JN	SCALE 1" = 10'	PROJECT NO. E5270
APPROVED BY POS	DATE JANUARY 2012	FIGURE NO. 1

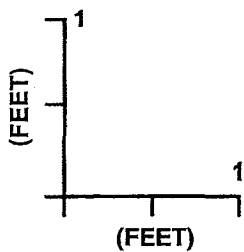



(North Panel)

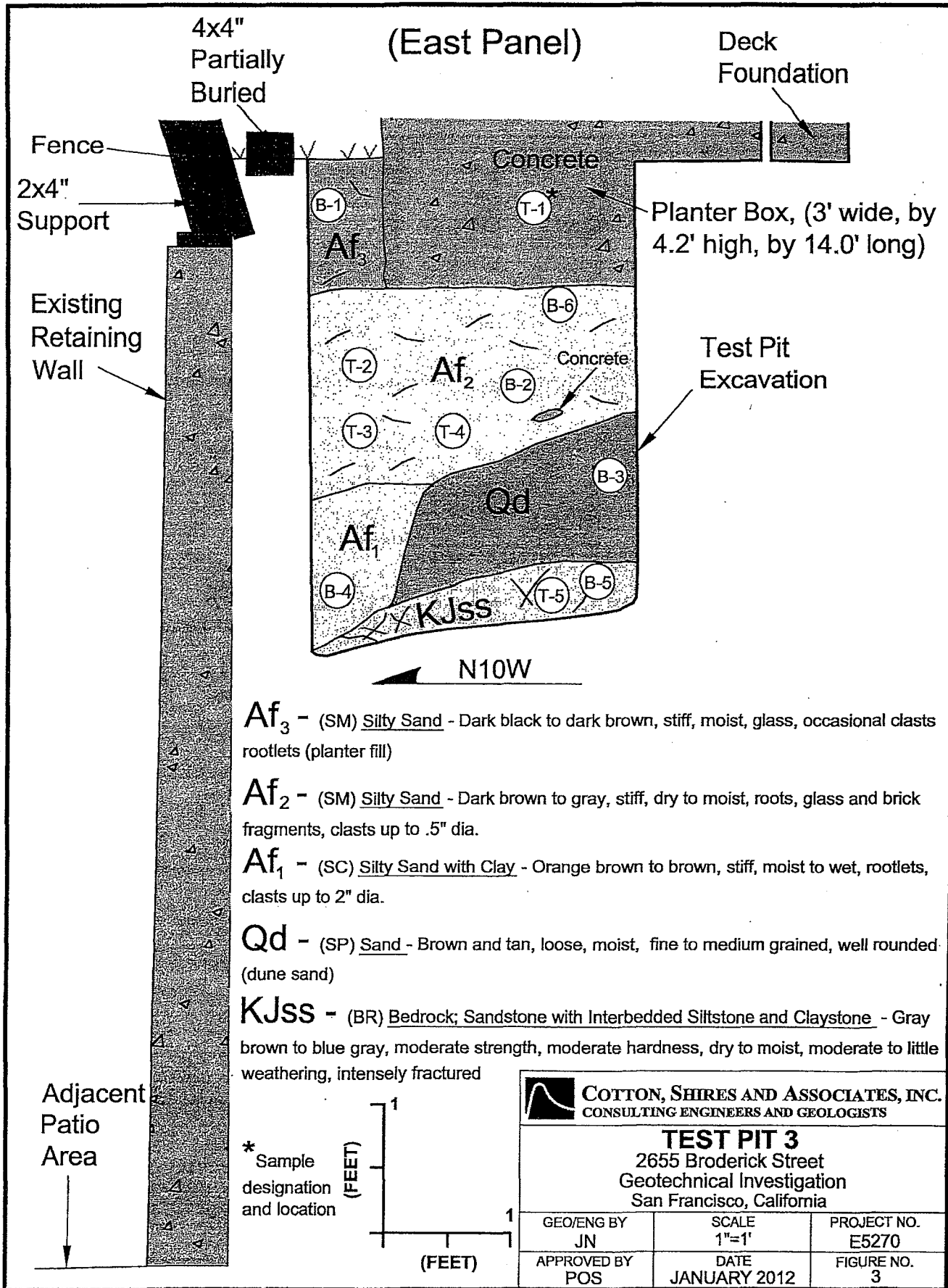
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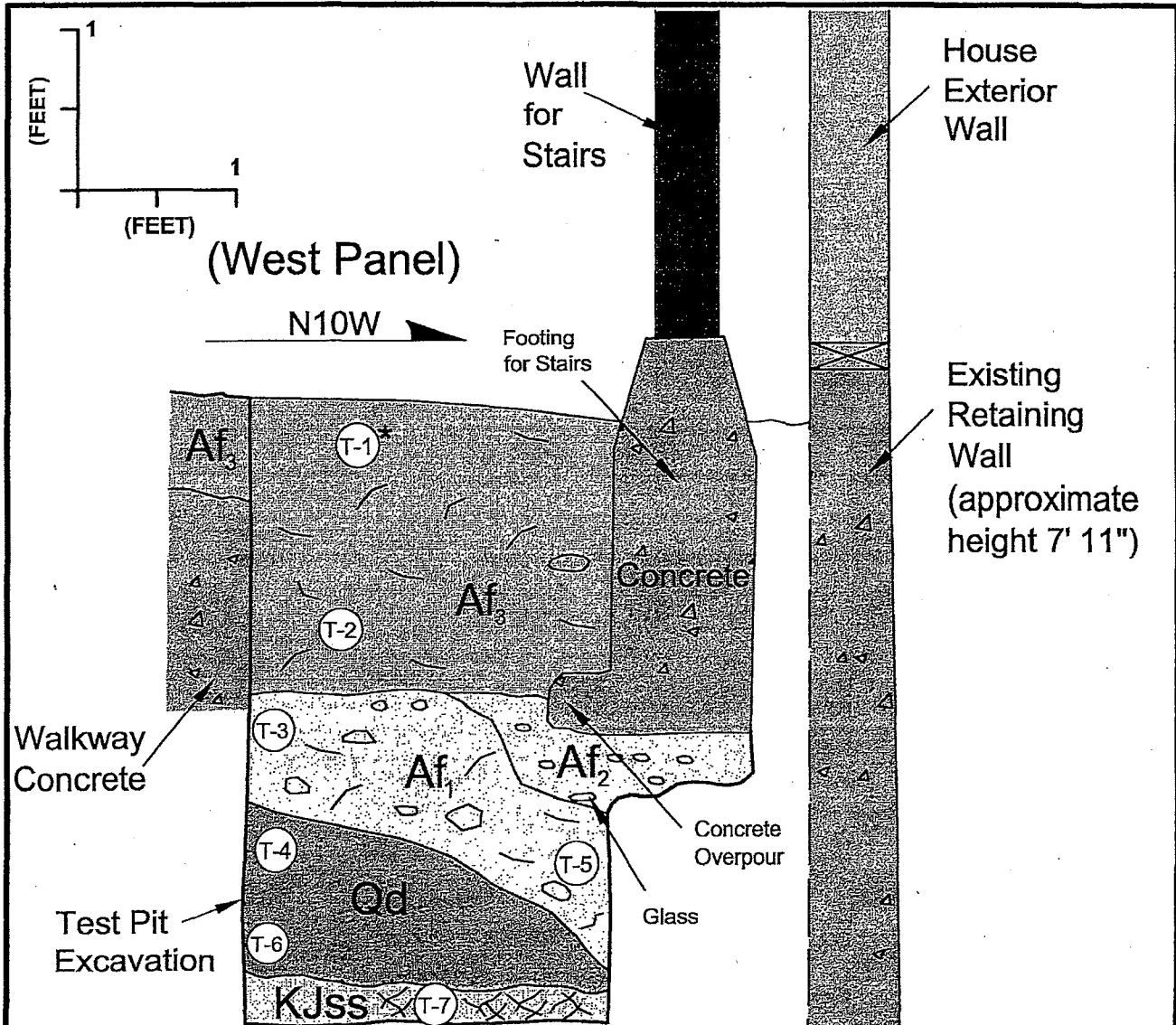


**Af<sub>3</sub>** - (SM) Silty Sand - Dark black to dark brown, stiff, moist, occasional clasts rootlets (planter fill)



 <b>COTTON, SHIRES AND ASSOCIATES, INC.</b> CONSULTING ENGINEERS AND GEOLOGISTS		
<b>TEST PIT 1</b> 2655 Broderick Street Geotechnical Investigation San Francisco, California		
GEO/ENG BY JN	SCALE 1"=1'	PROJECT NO. E5270
APPROVED BY POS	DATE JANUARY 2012	FIGURE NO. 2





**Af<sub>3</sub>** - (SM) Silty Sand - Dark black to dark brown, stiff, moist, occasional clasts rootlets (planter fill)

**Af<sub>2</sub>** - (SM) Silty Sand - Dark brown to gray, stiff, moist to wet, rootlets, glass and brick fragments, clasts up to .5" dia.

**Af<sub>1</sub>** - (SC) Silty Sand with Clay - Orange brown to brown, stiff, moist to wet, rootlets, clasts up to 2" dia.

**Qd** - (SP) Sand - Brown and tan, loose, moist, fine to medium grained, well rounded (dune sand)

**KJss** - (BR) Bedrock; Sandstone with Interbedded Siltstone and Claystone - Gray brown to blue gray, moderate strength, moderate hardness, moist to wet, moderate to little weathering, intensely fractured

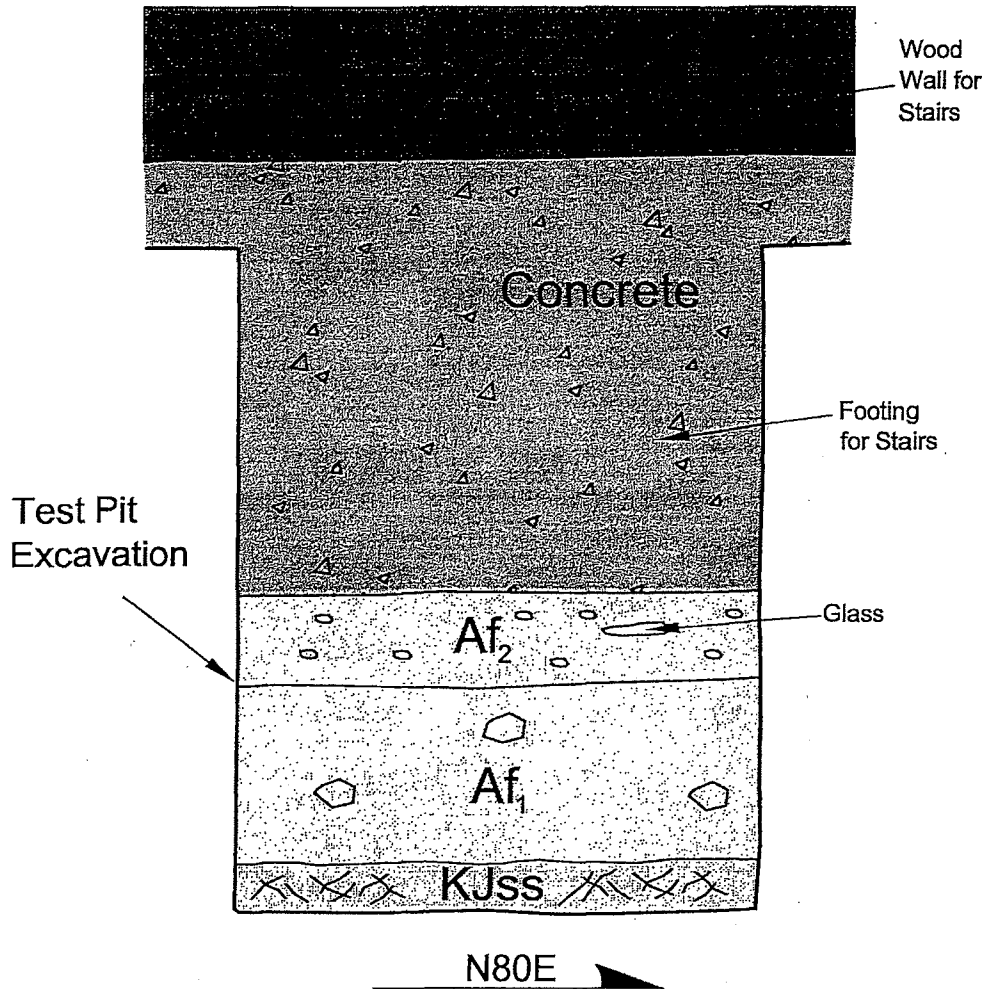
\* Sample designation and location

 **COTTON, SHIRES AND ASSOCIATES, INC.**  
CONSULTING ENGINEERS AND GEOLOGISTS

**TEST PIT 4**  
2655 Broderick Street  
Geotechnical Investigation  
San Francisco, California

GEO/ENG BY JN	SCALE 1"=1'	PROJECT NO. E5270
APPROVED BY POS	DATE JANUARY 2012	FIGURE NO. 4

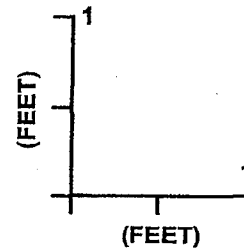
(North Panel)




**Af<sub>2</sub>** - (SM) Silty Sand - Dark brown to gray, stiff, moist to wet, rootlets, glass and brick fragments, clasts up to .5" dia.

**Af<sub>1</sub>** - (SC) Silty Sand with Clay - Orange brown to brown, stiff, rootlets, clasts up to 2" dia.

**KJss** - (BR) Bedrock; Sandstone with Interbedded Siltstone and Claystone - Gray brown to blue gray, moderate strength, moderate hardness, moist to wet, moderate to little weathering, intensely fractured



 <b>COTTON, SHIRES AND ASSOCIATES, INC.</b> CONSULTING ENGINEERS AND GEOLOGISTS		
<b>TEST PIT 4</b> 2655 Broderick Street Geotechnical Investigation San Francisco, California		
GEO/ENG BY JN	SCALE 1"=1'	PROJECT NO. E5270
APPROVED BY POS	DATE JANUARY 2012	FIGURE NO. 5

## APPENDIX A

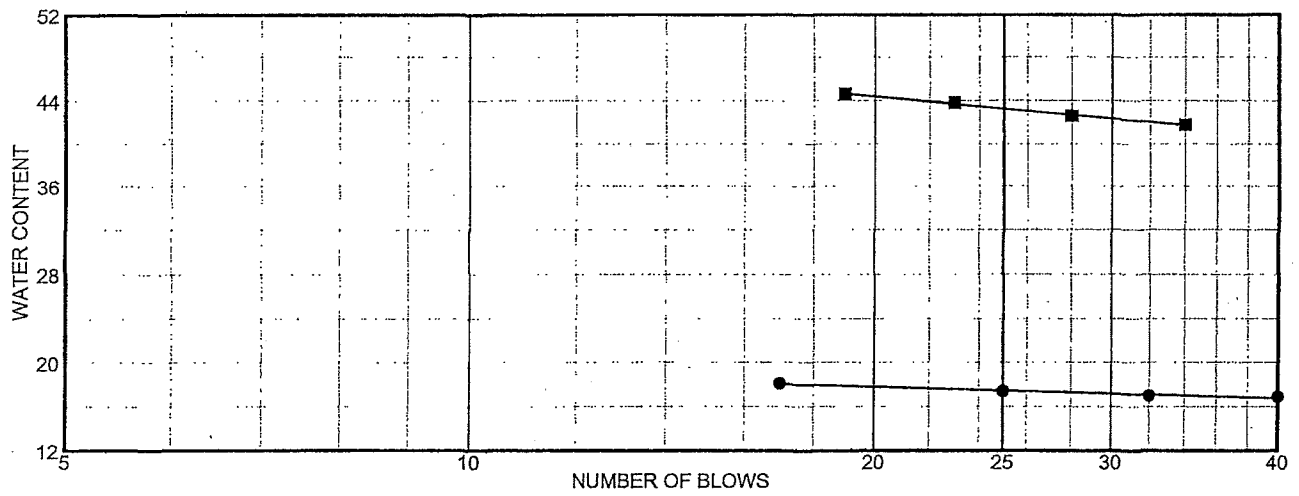
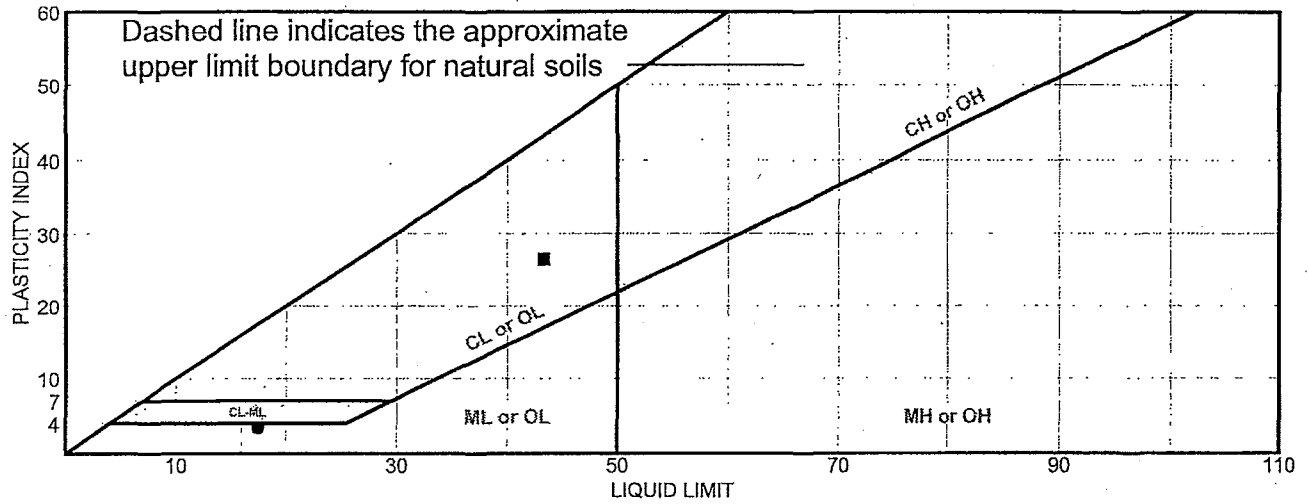
### LABORATORY TESTING

The laboratory testing performed for the 2655 Broderick site consisted of identification and testing of the principal soil types sampled during the field investigation to evaluate index properties and strength parameters of subsurface materials. The soil descriptions and the field and laboratory test results were used to assign parameters to the various materials at the site. The results of the laboratory test program are presented in this appendix (Figures A-1 through A-4).

The following laboratory tests were performed as part of this investigation:

1. Detailed soil/rock description;
2. Moisture content determination;
3. Wet and Dry unit weight determination;
4. Atterberg limits; and
5. Direct shear strength testing.

# LIQUID AND PLASTIC LIMITS TEST REPORT



MATERIAL DESCRIPTION	LL	PL	PI	%<#40	%<#200	USCS
● Very Dark Brown Silty SAND	17.5	14.1	3.4			
■ Dark Yellowish Brown Lean Clayey SAND	43.3	16.8	26.5			

**Project No.** 026-511      **Client:** Cotton, Shires & Associates  
**Project:** Zaretsky - E5270  
  
**● Source:** TP-3                      **Sample No.:** B-2                      **Elev./Depth:** 1.8-2.0'  
**■ Source:** TP-3                      **Sample No.:** B-4                      **Elev./Depth:** 3-3.5'

**Remarks:**

●

■

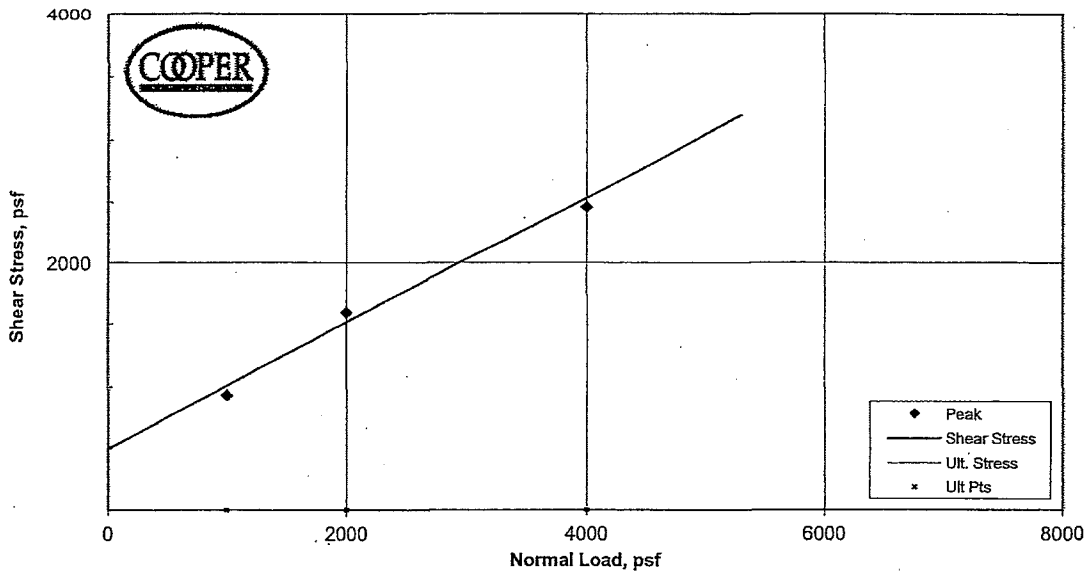
LIQUID AND PLASTIC LIMITS TEST REPORT

## COOPER TESTING LABORATORY

Figure

# Direct Shear

## ASTM D3080



**P. Phi (degrees)**

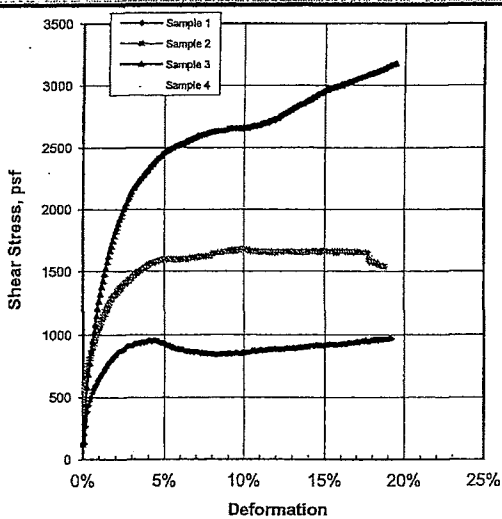
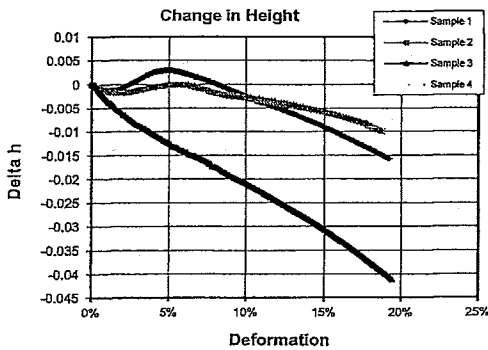
**27.0**

**Ult. phi (degrees)**

**P. Cohesion (psf)**

**500**

**Ult Cohesion (psf)**

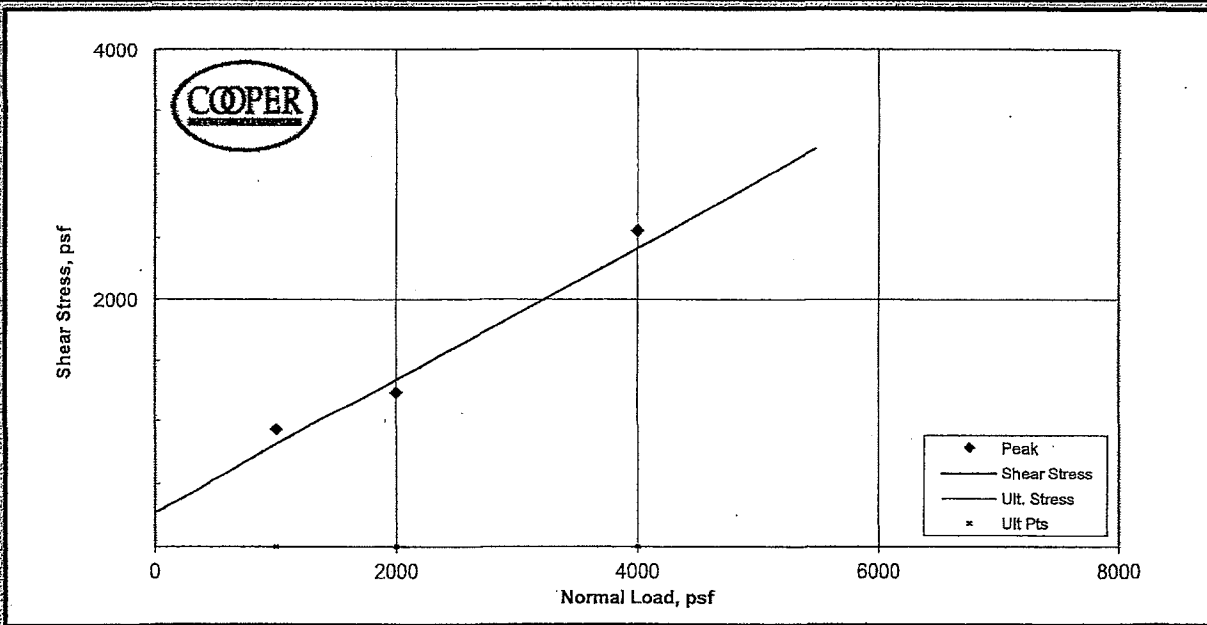


Sample Data: Initial				
Initial	1	2	3	4
Moisture	18.8%	19.4%	16.4%	
Dry Density, pcf	109.2	106.7	108.5	
Void Ratio	0.601	0.638	0.612	
Saturation	87.5%	85.3%	75.1%	
Diameter, in.	2.43	2.43	2.43	
Height, in.	1.01	1.00	1.00	
Sample Data: At Rest				
Moisture	19.7%	20.3%	16.6%	
Dry Density, pcf	112.1	111.3	112.2	
Void Ratio	0.561	0.571	0.563	
Saturation	98.3%	99.5%	84.1%	
Diameter, in.	2.43	2.43	2.43	
Height, in.	0.98	0.96	0.97	
Normal Stress, psf	1000	2000	4000	
Peak Stress, psf	976	1681	3167	
Stress Used, psf @ Deformation	931 @ 5%	1596 @ 5%	2461 @ 5%	
Ultimate Stress, psf				
Rate in/min.	0.0005	0.0005	0.0005	
Client #	026-511	Date:	1/23/2012	
Client	Cotton, Shires & Associates			
Project Name	Zaretsky			
Project Number	E5270		Reduced by:	MD
Sample #	Boring	Sample	Depth, ft.	
1	TP-3	T3	1.6-2.1	
2	TP-3	T3	1.6-2.1	
3	TP-3	T3	1.6-2.1	
4				
Visual Soil Classification				
1	Dark Gray CI SAND/ Si SAND (slightly plastic)			
2	Dark Gray CI SAND/ Si SAND (slightly plastic)			
3	Dark Gray CI SAND/ Si SAND (slightly plastic)			
4				

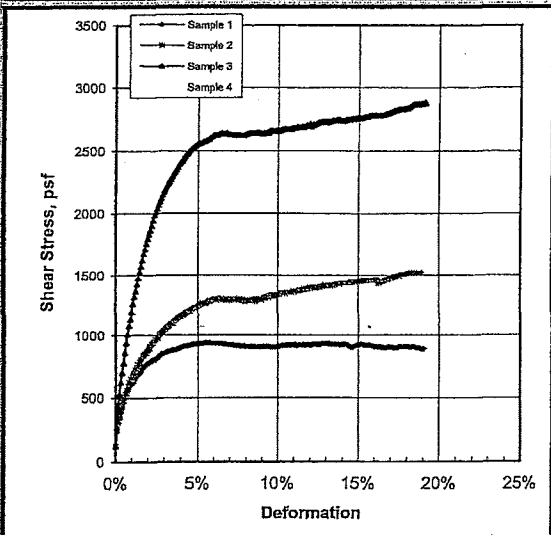
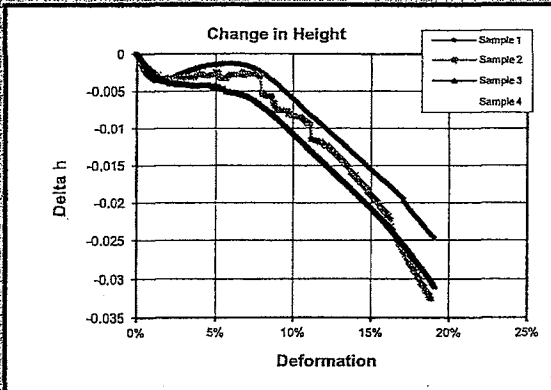
Remarks:

# Direct Shear

## ASTM D3080



<b>P. Phi (degrees)</b>	28.1	<b>Ult. phi (degrees)</b>	
<b>P. Cohesion (psf)</b>	275	<b>Ult. Cohesion (psf)</b>	

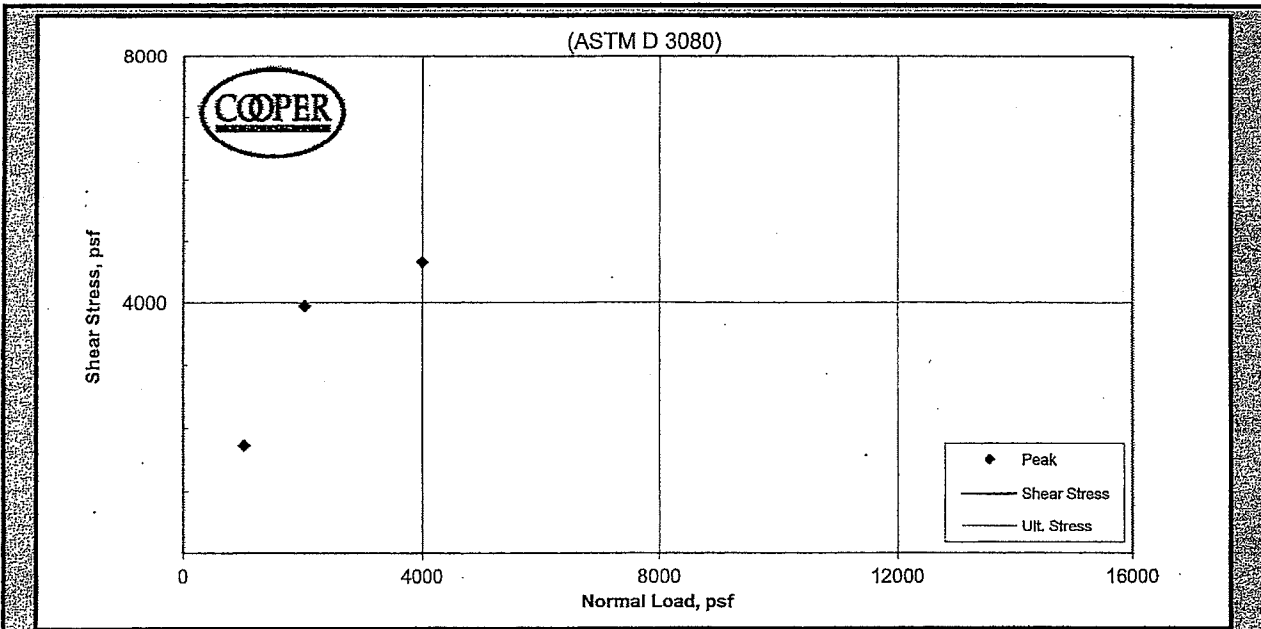


Sample Data - Initial				
Initial	1	2	3	4
Moisture	13.7%	12.6%	15.8%	
Dry Density, pcf	101.0	103.0	109.1	
Void Ratio	0.669	0.636	0.545	
Saturation	55.2%	53.3%	78.5%	
Diameter, in.	2.42	2.42	2.42	
Height, in.	1.00	1.00	1.00	
Sample Data - At Test				
Moisture	20.0%	19.7%	18.2%	
Dry Density, pcf	102.7	105.6	113.0	
Void Ratio	0.643	0.600	0.494	
Saturation	83.9%	89.5%	100.2%	
Diameter, in.	2.42	2.42	2.42	
Height, in.	0.98	0.98	0.97	
Normal Stress, psf	1000	2000	4000	
Peak Stress, psf	938	1518	2882	
Stress Used, psf	928	1242	2557	
@ Deformation	5%	5%	5%	
Ultimate Stress, psf				
Rate in/min.	0.0005	0.0005	0.0005	
<b>CTL #</b>	026-511	<b>Date:</b>	1/17/2012	
<b>Client:</b>	Cotton, Shires & Associates			
<b>Project Name:</b>	Zaretsky			
<b>Project Number:</b>	E5270		<b>Reduced by:</b>	MD
<b>Sample #</b>	<b>Boring</b>	<b>Sample</b>	<b>Depth, ft.</b>	
1	TP-4	T-5	2.8-3.4	
2	TP-4	T-5	2.8-3.4	
3	TP-4	T-5	2.8-3.4	
4				
Visual Soil Classification				
1	Olive Brown Silty SAND w/ Clay pockets			
2	Olive Brown Silty SAND w/ Clay pockets			
3	Olive Brown Silty SAND w/ Clay pockets			
4				

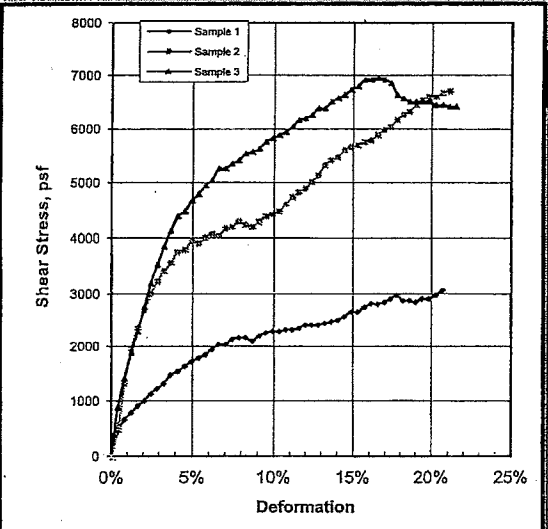
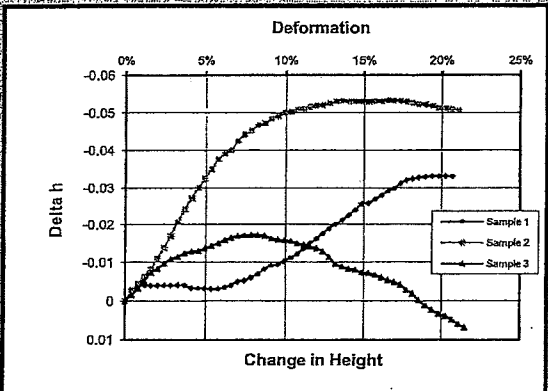
Remarks:



# Direct Shear



<b>P. Phi (degrees)</b>	<b>Ult. phi (degrees)</b>
P. Cohesion (psf)	Ult. Cohesion (psf)



Sample Data: Initial				
Initial	1	2	3	4
Moisture	8.9%	9.8%	14.2%	
Dry Density, pcf	114.2	124.3	120.9	
Void Ratio	0.476	0.356	0.394	
Saturation	50.6%	74.6%	97.2%	
Diameter, in.	2.42	2.42	2.42	
Height, in.	1.00	1.01	1.00	
Sample Data: At Test				
Moisture	15.2%	11.7%	12.9%	
Dry Density, pcf	114.9	127.0	126.6	
Void Ratio	0.468	0.332	0.339	
Saturation	81.1%	95.4%	102.7%	
Diameter, in.	2.42	2.42	2.42	
Height, in.	0.99	0.99	0.96	
Normal Stress, psf	1000	2000	4000	
Peak Stress, psf	3068	6700	6950	
Stress Used, psf	1722	3945	4665	
@ Deformation	5%	5%	5%	
Ultimate Stress, psf	3068	6700	6418	
Rate in/min.	0.0020	0.0020	0.0020	
CTL #	026-511		Date: 1/26/2012	
Client	Cotton, Shires & Associates			
Project Name	Zaretsky			
Project Number	E5270		Reduced by:	MD
Sample #	Boring	Sample	Depth, ft.	
1	TP-3/TP-4	T5/T7	3.4-4.2	
2	TP-3/TP-4	T5/T7	3.4-4.2	
3	TP-3/TP-4	T5/T7	3.4-4.2	
4				
Visual Soil Classification				
1	Olive Brown Clayey GRAVEL w/ Sand			
2	Olive Brown Clayey GRAVEL w/ Sand			
3	Olive Brown Clayey GRAVEL w/ Sand			
4				

Remarks: Major patching required on all samples due to Gravel in shear plane.

14 March 2012  
Project 731588101

Robert DeVries, Esq.  
Law Offices of Robert DeVries  
150 Post Street, Suite 600  
San Francisco, California 94108

Re: Report Review  
Retaining Wall  
2701 Green Street/2655 Broderick Street  
San Francisco, California

Dear Mr. DeVries:

In accordance with your request, we reviewed the report prepared by Cotton, Shires and Associates, Inc. (CSA) dated February 3, 2012, for the existing northside improvement at 2655 Broderick Street. You have asked us to review the report and evaluate whether the results of the study adequately address the impact of the improvements on an existing gravity wall that is present along the property that separates 2655 Broderick from the adjacent 2701 Green Street. During the course of our review, we visited the site, discussed the issues with you and the owner of 2701 Green Street and had several conversations with the author of the report, Mr. Patrick Shires, Geotechnical Engineer with CSA.

The wall was built about 100 years ago and is about 7.5 to 8.0 feet high. Starting in the early 2000s, improvements were constructed adjacent to the wall by the owners of 2655 Broderick Street. These improvements include a large rectangular, concrete planter box, a wooden deck, stairs, and a stone patio; trees were planted in the planter box and adjacent to the wall.

During its investigation CSA, excavated several test pits along the wall and found fill over bedrock where explored. The bedrock, of the Franciscan, Complex consists of sandstone interbedded with siltstone and claystone. The bedrock is about 3.5 feet below the existing ground surface. It appears that the fill was placed at different times during development of the property; there is no documentation presented in the report that the fill was compacted during placement. Furthermore, at least 12 to 18 inches of the fill may have been placed during patio and planter box construction; according to testimony by Mr. Cox of WJE, Engineers, a portion of the fill is against a new fence along the west of end of the property and the fence does not show evidence of dry rot.

In its report, CSA concludes the lateral loads from the deck and the planter box are "minimal." Our review of their calculations dated January 30, 2012, indicate that the pressures computed are vertical pressures — not lateral pressures. The lateral pressures in the fill against the wall would be significantly greater than the values presented in the report.

CSA further concludes that there is a lack of significant distress observed in the wall adjacent to the improvements. Mr. Cox measured a ¾-inch bowing of the wall toward Green Street and observed vertical cracks that may be caused by bending and deflection of the wall.

Robert De Vries, Esq.  
Law Offices of Robert DeVries  
14 March 2012  
Page 2

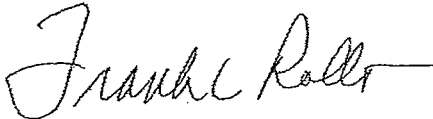
While CSA concludes that the load imposed by the stairs and planter box can be supported by the retaining wall, they recognize that the details of the wall are unknown and that the wall has not experienced earthquake loads. Consequently, they recommended that the stair footing and planter box be underpinned into the sandstone bedrock. We agree. Also, CSA recommended that all the artificial fill placed between the planter box and the top of the retaining walls be removed. We agree.

In our opinion, all the recent fill designated as Af<sub>3</sub> by CSA that lies within the zone defined by an imaginary 1½:1 (Horizontal to vertical) line drawn up from the surface of the rock at the wall should be removed. This fill is recent, uncompacted and imposes a load on the wall that was not part of the original design and construction (Circa 1913).

We have observed throughout the City of San Francisco that mature trees adjacent to retaining walls have caused damage to walls. There are numerous examples where the roots impose significant stresses on the walls causing them to lean and crack. Therefore, we recommend that all trees that lie within the same imaginary 1½:1 line drawn up from the intersection of the bedrock and wall be removed. This recommendation should also apply to the trees planted in the concrete box unless it is shown that the box has a well reinforced concrete bottom.

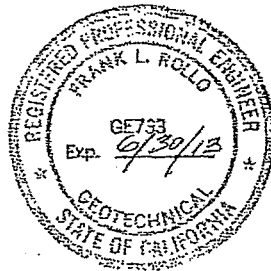
We appreciate the opportunity to review and comment on the CSA report and to assist you with this matter.

Sincerely yours,  
TREADWELL & ROLLO, A LANGAN COMPANY



Frank L. Rollo  
Geotechnical Engineer

731588101.01\_FLR





29 August 2012  
Project 731588101

Robert Hendrickson, Esq.  
Duane Morris, LLP  
One Market Plaza, Spear Tower, Suite 2200  
San Francisco, California 94105-1127

Re: Fill Materials  
2701 Green Street/2655 Broderick Street  
San Francisco, California

Dear Mr. Hendrickson:

This letter clarifies our understanding of the placement of fill adjacent to the existing gravity retaining wall that separates the properties at 2701 Green Street and 2655 Broderick Street in San Francisco.

In our letter dated 14 March 2012, we stated that at least 12 to 18 inches of fill may have been placed during patio and planter box construction. We used the term "may have been" because we were not present during the fill placement nor during the excavation of test pits by Cotton, Shire Associates, Inc. (CSA). Consequently, we were not able to state conclusively when the fill was placed; however, the information provided in the CSA report indicates the fill, designated as Af<sub>3</sub>, is the most recent of the three fills encountered in the test pits; the Af<sub>3</sub> fill was placed against the recently cast deck foundation, planter box and concrete landing pad and is above the older Af<sub>1</sub> and Af<sub>2</sub> fills. Therefore, it is likely that the fill is recent and was not a part of the original gravity wall construction. Furthermore, the Af<sub>3</sub> fill is shown adjacent to the wall at test pit locations 1 and 3.

As stated in our letter, we believe this fill, designated as Af<sub>3</sub>, imposes a load on the wall that was not part of the original design; it should be removed.

Sincerely yours,  
TREADWELL & ROLLO, A LANGAN COMPANY

Frank L. Rollo  
Geotechnical Engineer

731588101.02\_FLR\_2701 Green Street



Via Email: rchendrickson@duanemorris.com

November 14, 2012

Mr. Robert Hendrickson  
Duane Morris  
One Market Plaza, Suite 2200  
San Francisco, CA 94105-1127

Re: 2701 Green/2655 Broderick Investigation  
WJE No. 2009.4685

Dear Mr. Hendrickson:

This letter provides an update to Wiss Janney Elstner Associates' (WJE) investigation and analysis of the conditions existing at Mr. Irving Zaretsky's property at 2701 Green Street and the adjacent property at 2655 Broderick Street, San Francisco, California. This letter supplements our previous report, dated June 4, 2010.

As you know, the four-story wood-framed apartment structure at 2701 Green was built around 1912, including an unreinforced gravity retaining wall on the uphill side property line adjacent to 2655 Broderick. The original Broderick house reportedly was constructed around 1926, but there have been many remodels and additions over the years, and it is the remodels over the last approximately 10 years that included addition of fill materials and surcharge loads against the property-line retaining wall of 2701 Green that are of concern.

Originally the soil level against the property-line retaining wall was somewhat lower than the top of the wall, as late as 1994 when Mr. Zaretsky bought the property at 2701 Green, but additional fill soils have been added until the soil is now above the top of the retaining wall and is against the base of the 2701 Green wood-framed walls and fences. In addition to the decay and termite damage that having moist soil in contact with wood has inflicted and possibly other damage that may be revealed during repairs, the additional soil fill has increased the lateral load on the retaining wall. Moreover, the owners of 2655 Broderick built both a deck with stairway and a large concrete planter that contains numerous large trees along the property line. The weights of both additions add surcharge loads to the retaining wall. Also, rootballs of the large trees and shrubs in the planter and elsewhere along the property line are adding further unanticipated pressures against the retaining wall.

The deflection of the top of the cantilevered portion of the retaining wall has been measured to be approximately 1.25 inches. We also observed two more-or-less vertical cracks in the wall, one at the center of the span, and one at the third-point of the span. The deflection and (at least) the centerline crack are likely due to the active earth pressure of the soil and planter surcharges adjacent to this wall.

Headquarters & Laboratories—Northbrook, Illinois

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Los Angeles | Minneapolis | New Haven | New York | Princeton | San Francisco | Seattle | Washington, DC

## UPDATE

The neighbors' geotechnical engineer, Patrick Shires of Cotton, Shires, and Associates (CSA), conducted an investigation on the 2655 Broderick property that involved digging four test pits to evaluate the soil profiles near the property line, laboratory testing of several soil samples, and performing engineering analysis. The subsequent CSA report, dated February 3, 2012, provides us with some additional information that we can use to better estimate the loads on the retaining wall of 2701 Green. In addition, WJE has taken measurements of the retaining wall that also help with the process of estimating loads.

The CSA test pits generally indicate that the uphill site is underlain with sandstone/siltstone/ claystone bedrock 3.5 to 3.6 feet below the top of the retaining wall. The test pits revealed varying amounts of ancient dune sand immediately above the bedrock and varying amounts of three different fills identified in each of the pits, with a cumulative fill height adjacent to the wall of about 3.5 feet

At the lightwell of 2701 Green, the retaining wall cantilevers above the slab approximately 7 feet, 9 inches. It is 7-inches thick at the top and the front face is battered slightly so that—assuming the hidden face is vertical—the wall is about 14-inches thick at the lightwell slab; WJE has not confirmed the geometry of wall along the uphill side. In addition, we do not know the depth or shape of the footing below the top surface of the lightwell slab, but can reasonably assume that it extends 1 foot below the lightwell slab's upper surface for a total height of 8 feet, 9 inches.

Test pit 3, by CSA, was dug adjacent to the neighbor's planter and near the lightwell retaining wall. CSA found exposed bedrock at approximately 3 feet, 6 inches, below the top of the wall. However, the test pit was dug some distance away from the back of the retaining wall, and thus did not reveal if the retaining wall was cast directly against the bedrock cut below that level. If the wall was over-excavated, the backfill soil exerts lateral pressure over the full height of the wall. Since we do not know the interaction between the wall and bedrock—and in order to be reasonably conservative—our calculations are based on the assumption that the soil and bedrock behind the wall was over-excavated to its full height and backfilled.

It is reasonable to assume that the lowest layer of fill (designated Af1 by CSA) was placed soon after the wall was constructed, and represents the original condition of the wall. However, while there is no way to date fill Af2, there have been repeated additions of soil over the years. Af2 may have been placed more than 10 years ago, or less; but either way, it represents a significant surcharge against the retaining wall beyond the original design intent. Both the stairway foundation next to the 2701 Green building and the planter foundation next to the cantilevered retaining lightwell wall are founded on Af2 soil. Af3 is the most recent fill, clearly less than 10 years old, and was placed next to the planter and also the stairway footing. According to the CSA report, the depth of fills Af2 and Af3 total about 2 feet.

The CSA report estimated the surcharge created by the 3-foot wide concrete planter, soil and trees near the retaining wall weighs about 550 psf along its 14-foot length, or about 1,650 pounds per lineal foot and 23,000 pounds total. This is close to WJE's earlier estimate of about 20,000 pounds total. WJE assumed two initial, pre-remodel cases for our calculations: an original soil height one foot below the top of the

wall, and an original soil height two feet below the top of the wall. From our investigation and the CSA report, the original soil height against the wall likely fell at or between those two extremes.

**CALCULATIONS**

The planter and its trees appear to add the most severe loading to the retaining wall, so WJE concentrated on determining the additional forces and moments on the retaining wall for that condition. Our calculations indicate significant lateral load increases due to additional soil fill and planter surcharge, summarized in the table, below. The table also lists major increases in the overturning moments at the base of the retaining wall. While the loads and moments are relatively straightforward calculations, we are unable to calculate the additional stresses on various portions of the walls due to a lack of knowledge about the geometry of the wall, concrete strength, etc.

Fill Height	Active earth pressure, $P_{A_s}$ increase, including planter surcharge	Overturning moment, $M_{A_s}$ increase, including planter surcharge
1'	120%	310%
2'	210%	560%

Clearly, the cumulative effects of raising the grade over the years has greatly increased the horizontal loads and overturning forces on the wall above the original intent of the designer. In addition, these increased loads will reduce the ability of the retaining wall to withstand seismic forces.

WJE did not calculate the added loads and moments due to the stairway and its foundation at 2655 Broderick, but they, too, will be significant.

**RECOMMENDATIONS**

The increases in the lateral loading and overturning moments in conjunction with the observed cracking of the retaining wall, argue for reducing the stresses against this very old, unreinforced wall. This problem, along with the issues of proper runoff drainage, and decay of the walls of 2701 Green that have been previously discussed should be resolved by a single, comprehensive engineered design.

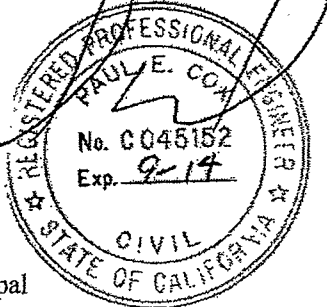

WJE recommends the following actions by the owner of 2655 Broderick:

- Remove the planter and its trees.
- Remove all other trees along the property line.
- If the planter is to be rebuilt near that location, it should be located away from the wall, or founded on deep foundations that prevent it surcharging the property-line retaining wall.
- Any trees to be installed along the property line are to be installed in planters with impenetrable sides and bottoms that prevent the roots from applying lateral pressure to the walls.
- Remove the deck and stairway and its foundation. If it is to be rebuilt in the same location, it should be founded on deep foundations that prevent it from loading the retaining wall.
- While the deck and stairway are removed, provide access for the owner of 2701 Green to repair the wood framing of the property line walls.

- Regrade the soil along the property line to a level that will reduce the stresses on the retaining wall to acceptable levels based on sound engineering analysis and graded at a maximum 1:1-1/2 uphill slope.
- Once the height of the soil along the property line has been reduced, install runoff controls to prevent uphill water from accumulating against the retaining wall, or draining onto the 2701 Green property.
- As an alternate to some of the above items, the owner of 2655 Broderick can construct a retaining wall on the uphill side of the property line that will support or retain soils, planters, plant roots, and structures without loading the 2701 Green retaining wall. A minimum of six inches of separation between soil and wood will have to be maintained, and provisions made for proper rainwater drainage.

Sincerely,

WISS, JANNEY, ELSTNER ASSOCIATES, INC.



Paul Cox, C.E.  
Associate Principal



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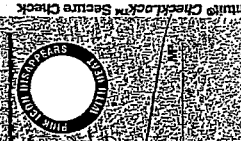
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(BOS)

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**From:** Carroll, John (BOS)  
**Sent:** Thursday, February 19, 2015 1:16 PM  
**To:** wrbuck@aol.com  
**Cc:** Board of Supervisors (BOS); BOS Legislation (BOS)  
**Subject:** FW: File No 150059 - 2655 Broderick St after the fact permit 24feb15 BOS mtng  
**Attachments:** Board of Supervisor 24feb15.doc; Roof Deck 2655 Broderick 13Sept14.doc

**Categories:** 150059

Thank you for your communication. I will be sure the communication reaches the Board of Supervisors and is included in the hearing file for the appeal matter.

Regards,

John Carroll  
Legislative Clerk  
Board of Supervisors  
San Francisco City Hall, Room 244  
San Francisco, CA 94102  
(415)554-4445 - Direct | (415)554-5184 - General | (415)554-5163 - Fax  
[john.carroll@sfgov.org](mailto:john.carroll@sfgov.org) | [bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

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---

**From:** wrbuck@aol.com [<mailto:wrbuck@aol.com>]  
**Sent:** Thursday, February 19, 2015 1:10 PM  
**To:** BOS Legislation (BOS)  
**Cc:** Carroll, John (BOS)  
**Subject:** File No 150059 - 2655 Broderick St after the fact permit 24feb15 BOS mtng

William R. Kales  
2634 Broderick St.  
San Francisco, CA 94123

19 February 2015

To:

San Francisco Board of Supervisors, City Hall  
1 Dr. Carlton B. Goodlett Place Rm 244  
San Francisco, 94102-4689

Dear Sirs:

RE: File No. 150059 - 2655 Broderick St after the fact permit .  
Board of Supervisors meeting 24 February 2015

I am concerned about the precedent that will be set if you allow the owners of 2655 Broderick St. to obtain an after the fact building permit for roof structures that exceeded the height limits for this Cow Hollow residential area.

- 1) The roof structures at 2655 Broderick St were built without a proper building permit.  
neighbors were not notified  
work was not visible during construction  
thus neighbors did not complain during construction
- 2) The roof structure exceeds the 35 foot building height for the Cow Hollow.
- 3) The roof structure interrupts the view corridor of homes across the street.
- 4) Approving this application will set a dangerous precedence, as it will encourage renegade behavior, by allowing illegal work to be permitted after the fact.

Therefore request the board of supervisors deny this permit for 2655 Broderick St and force the removal of the illegal structures.

Sincerely,

William R. Kales

William R. Kales  
2634 Broderick St.  
San Francisco, CA 94123

19 February 2015

To:  
San Francisco Board of Supervisors, City Hall  
1 Dr. Carlton B. Goodlett Place Rm 244  
San Francisco, 94102-4689

Dear Sirs:

RE: File No. 150059 - 2655 Broderick St after the fact permit .  
Board of Supervisors meeting 24 February 2015

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I therefore request the board of supervisors deny this permit for 2655 Broderick St and force the removal of the illegal structures.

Sincerely,

William R. Kales

Mr. & Mrs. William R. Kales  
2634 Broderick St  
San Francisco, CA 94123

13 September 2014

To: San Francisco Planning Department  
1650 Mission St. , Suite 400  
San Francisco, CA 94103-2479

From: Mr. & Mrs. William R. Kales  
2634 Broderick St  
San Francisco, CA 94123

CC: Mark Casey  
2655 Broderick St.  
San Francisco, CA 94123  
Email: [markcasey@gmail.com](mailto:markcasey@gmail.com)

Date: 13 Sept 2014

Subject: Roof Deck Project for 2655 Broderick St. Case No. 2013.09.12.6709

Dear Sirs:

We hereby object to this project because:

- 1) The stair Penthouse penetrates the Permissible Building envelope height of 35 feet.
- 2) The stair penthouse will obstruct the views from our house at 2634 Broderick St.

Sincerely,

William R. Kales and Nancy Ely Kales



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

**DATE:** February 13, 2015

**TO:** Angela Calvillo, Clerk of the Board

**FROM:** Sarah Jones, Environmental Review Officer, Planning Department

**RE:** Appeal of the Categorical Exemption for 2655 Broderick Street, Assessor's Block 0955, Lot 002  
Planning Department Case Nos. 2014.1497D & 2014.1498D

**HEARING DATE:** February 24, 2015

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

Attached is the Planning Department's memorandum to the Board of Supervisors regarding the appeal of the categorical exemption for 2655 Broderick Street. We have also mailed copies of the memorandum to the project sponsor and appellant.

If you have any questions regarding this matter, please contact Mary Woods at 415-558-6315 or [mary.woods@sfgov.org](mailto:mary.woods@sfgov.org).

Thank you.

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BOARD OF SUPERVISORS  
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FEB 13 AM 10:29

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# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

## Categorical Exemption Appeal 2655 Broderick Street

Reception:  
415.558.6378

Fac:  
415.558.6409

Planning  
Information:  
415.558.6377

RECEIVED  
FEB 13 AM 10:29  
SAN FRANCISCO

**DATE:** February 13, 2015  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Sarah B. Jones, Environmental Review Officer – (415) 558-9048  
Mary Woods – (415) 558-6315  
**RE:** Planning Case Nos. 2014.1497D and 2014.1498D  
Appeal of Categorical Exemption for 2655 Broderick Street  
**HEARING DATE:** February 24, 2015  
**ATTACHMENTS:** Attachment A – January 16, 2015 Appeal Letter from Irving Zaretsky and Engineers: Frank Rollo, Rodrigo Santos, and Paul Cox (The Appeal Letter includes the December 5, 2014 Exemption from Environmental Review)

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**PROJECT SPONSOR:** Mark and Carrie Casey, c/o Craig Nikitas, Consultant (415) 810-5116  
**APPELLANT:** Irving Zaretsky, (415) 559-6875; and Engineers: Frank Rollo, Rodrigo Santos, and Paul Cox, (415) 955-5201

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### INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the "Board") regarding the Planning Department's (the "Department") issuance of a Categorical Exemption under the California Environmental Quality Act ("CEQA Determination") for the proposed 2655 Broderick Street project (the "Project").

The Department, pursuant to Title 14 of the CEQA Guidelines, issued a Categorical Exemption for the Project on December 5, 2014 finding that the proposed Project is exempt from the California Environmental Quality Act (CEQA) as a Class 1 categorical exemption.

The decision before the Board is whether to uphold the Department's decision to issue a categorical exemption and deny the appeal, or to overturn the Department's decision to issue a categorical exemption and return the project to the Department staff for additional environmental review.

### SITE DESCRIPTION & EXISTING USE

The Project site contains a two-story-over-garage, single-family house. The Project lot measures approximately 30 feet wide by 100 feet deep with an area of 3,000 square feet. The lot slopes downward and the existing circa 1926 building occupies approximately 57 percent of the site. The front building wall



is at the front property line while the rear building wall is set back approximately 43 feet from the rear property line. The lot slopes laterally up toward Vallejo Street.

## **PROJECT DESCRIPTION**

The Project is proposing, under building permit 2013.09.12.6709, to (1) legalize an existing 425 square-foot roof deck and stair penthouse; (2) add a one-hour fire-rated parapet wall along the south property line of the roof deck; and (3) modify the existing parapet wall/guardrail from 38 inches to 42 inches in height at the existing three-story building; and proposing, under building permit 2013.09.12.6711, to legalize the as-built condition of a second-story deck and stairs connecting the deck to grade constructed under building permit application number 8504468 at the rear of the building.

## **BACKGROUND**

On December 5, 2014, the Department determined that the Project was categorically exempt under CEQA Class 1 – Existing Facilities, and that no further environmental review was required.

On January 16, 2015, an appeal of the Categorical Exemption Determination was filed by Irving Zaretsky and Engineers: Frank Rollo, Rodrigo Santos, and Paul Cox.

## **CEQA GUIDELINES**

### **Categorical Exemptions**

Section 21084 of the California Public Resources Code requires that the CEQA Guidelines identify a list of classes of projects that have been determined not to have a significant effect on the environment and are exempt from further environmental review.

In response to that mandate, the State Secretary of Resources found that certain classes of projects, which are listed in CEQA Guidelines Sections 15301 through 15333, do not have a significant impact on the environment, and therefore are categorically exempt from the requirement for the preparation of further environmental review.

The CEQA State Guidelines Section 15301(e)(2), or Class 1, provides an exemption from environmental review for additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. Therefore, the proposed legalization of the rear deck and stairs, the roof deck and related new work to the parapet wall would be exempt under Class 1.

In determining the significance of environmental effects caused by a project, CEQA State Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA State Guidelines 15604(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial

evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts.”

## **APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES**

The concerns raised in the January 16, 2015 Appeal Letters are cited below and are followed by the Department’s responses.

**Issue 1: The Appellants contend that the Project should not be legalized as is with regard to “raised soil level at 2655 Broderick Street, the lack of proper drainage and the overflow of water onto 2701 Green Street and onto the public sidewalk of Green Street present an environmental hazard, and the encroachment across the property line at the roof in conjunction with an illegal roof deck.”**

“2655 Broderick is a single family home. Since late 1980's it has been sold and resold several times and each new owner engaged in construction of exterior additions to the building structure without proper permits and not withstanding City review and prohibition of building these structures. These structures were accompanied by the raising of the soil level of up to 2 feet all along the 80 foot retaining wall of 2701 Green Street. These structures negatively impact 2701 Green Street, its downhill neighbor, and have damaged the property.

1. The structures built surcharge the retaining wall of 2701 Green Street.
  - a. A planter constructed to abut the retaining wall (the issue only partially resolved) surcharges the retaining wall.
  - b. Rear deck stairs and foundation abutting the retaining wall of 2701 Green Street continue to surcharge the wall.
  - c. Raised soil levels at 2655 Broderick along the 80 foot open air retaining wall of 2701 Green Street surcharge the retaining wall.
2. Lack of proper drainage at 2655 Broderick and drainage directed against the property line of 2701 Green Street.
  - a. Raised soil level causes water to overflow onto 2701 Green Street and to continue to flow onto the public sidewalk of Green Street,
  - [c]b. Soil - wood contact has led to decay to the property-line wood wall and framing of 2701 Green.
3. Encroachment across the property line at the roof in conjunction with an illegal roof deck prevent re-roofing of 2701 Green Street and prohibit repair of water penetration and the prevention of dry rot and mold.

The owners of 2655 Broderick request through these Permit Applications to legalize the existing structures AS IS.”

**Response 1:** The Planning Department is not responsible for enforcing drainage or surcharge. These issues should be resolved through the building permit review process by the Department of Building

Inspection. Property line encroachment is a civil matter and should be dealt with by the affected property owners. These appellants' concerns do not deal with physical changes to the existing property, as those conditions already exist. Nonetheless, this is not a CEQA issue. The Categorical Exemption issued for the two permits remains valid.

**Issue 2:** The Appellants contend that 2701 Green Street, the neighboring property to 2655 Broderick Street, is "an historical resource 12 unit apartment building constructed in 1913, as one of the earliest apartment building (sic) built in the Cow Hollow District of San Francisco." They furthermore contend that "the current exterior construction and proposed changes negatively impact the adjoining historical resource, 2701 Green Street."

**Response 2:** The property 2701 Green Street has not been evaluated for individual historical significance by a qualified historic preservation professional. While the property is located in the vicinity of an identified Cow Hollow First Bay Tradition Historic District, 2701 Green Street is not representative of the First Bay Tradition style and it would not contribute to this historic district. Typically, an historical resource evaluation is only performed by the Planning Department when a proposed project could materially impair the significance of a potential historical resource. CEQA Guidelines Section 15064.5 defines "material impairment" as the demolition or alteration in an adverse manner of those physical characteristics of an historical resource that convey its historical significance.

The proposed project to legalize existing conditions, to construct a fire-rated parapet wall along the south property line, and to slightly raise a parapet wall at the 2655 Broderick Street property could not possibly cause material impairment of any adjacent historical resources. No change would occur as a result of the legalization of existing features, and the changes to the existing parapet wall and addition of the new south parapet wall would not cause a perceptible change in the setting of adjacent potential historical resources.

The Appellants have not presented an argument defining the historical significance of 2701 Green Street, and neither have they demonstrated how the proposed project could cause a substantial adverse change to the potential historical resource. The Planning Department maintains that the project at 2655 Broderick Street cannot be considered to cause a negative impact to an adjacent historical resource.

**Issue 3:** The Appellants contend that "2655 Broderick Street was built in 1926 and is over 45 years old and can is (sic) therefore to be considered as if an Historical Asset."

**Response 3:** The term "historical asset" is not defined in the CEQA Guidelines. If we assume that the Appellants mean "historical resource", then the Appellants are incorrect to imply that the building's age alone qualifies the property as an historical resource. Section 15064.5 of the CEQA Guidelines sets forth the definition of historical resources, as cited below:

*(1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code §5024.1, Title 14 CCR, Section 4850 et seq.).*

*(2) A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.*

*(3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code §5024.1, Title 14 CCR, Section 4852) including the following:*

- (A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;*
- (B) Is associated with the lives of persons important in our past;*
- (C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or*
- (D) Has yielded, or may be likely to yield, information important in prehistory or history.*

*(4) The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.*

The subject property is not listed in any local, state, or federal registers; nor has the property been demonstrated to meet the criteria for listing on the California Register of Historical Resources; nor has the Planning Department, as the lead agency in this CEQA review, determined the property to be an historical resource.

As explained under Response 2 above, an historical resource evaluation is only performed by the Planning Department when a proposed project could materially impair the significance of a potential historical resource. CEQA Guidelines Section 15064.5 defines "material impairment" as the demolition or alteration in an adverse manner of those physical characteristics of an historical resource that convey its historical significance. The proposed project to legalize existing conditions, to construct a fire-rated parapet wall along the south property line, and to slightly raise a parapet wall at the 2655 Broderick Street property would not cause material impairment of any features important to the potential historical significance of the property. No change would occur as a result of the legalization of existing features,

and the change in height of the parapet wall and addition of the new south parapet wall will cause minimal changes to the roof form.

The Appellants have not presented an argument defining the historical significance of 2655 Broderick Street, nor have they demonstrated how the proposed project could cause a substantial adverse change to the potential historical resource.

For the reasons cited above, the proposed project would not have a significant adverse impact upon an historical resource, and the proposed project was appropriately exempt from environmental review.

## **CONCLUSION**

No substantial evidence supporting a fair argument that a significant environmental effect may occur as a result of the project has been presented that would warrant preparation of further environmental review. The Department has found that the proposed Project is consistent with the cited exemption. The Appellants have not provided any substantial evidence or expert opinion to refute the conclusions of the Department.

For the reasons stated above and in the December 5, 2014 CEQA Categorical Exemption Determination, the CEQA Determination complies with the requirements of CEQA and the Project is appropriately exempt from environmental review pursuant to the cited exemption. The Department therefore recommends that the Board uphold the CEQA Categorical Exemption Determination and deny the appeal of the CEQA Determination.

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## ATTACHMENT A

January 16, 2015 Appeal Letter from Irving Zaretsky and Engineers: Frank Rollo, Rodrigo Santos and Paul Cox.

(The Appeal Letter includes the December 5, 2014 Exemption from Environmental Review)

IZ@Hachell. Met  
(415) 922-7609  
3111 Jackson St  
SF 94115

January 16, 2015

REQUEST FOR CEQA HEARING

BOARD OF SUPERVISORS  
Ms. Angela Calvillo  
Clerk of the Board  
City Hall, Room 244  
San Francisco, CA 94102

RE: 2655 Broderick  
Block 0955 Lot 002  
Permit Application: 2013.09.12.6709  
DR case No: 14.1497D  
Permit Application: 2013.09.12.6711  
DR case No: 14.1498D

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CEQA Categorical Exemption Determination by Mary Woods  
December 5, 2014.

APPELLANTS:

Irving Zaretsky owner of 2701 Green Street

Engineers for 2701 Green Street:

Frank Rollo - geotechnical engineer  
Rodrigo Santos - Structural engineer.  
Paul Cox - Structural engineer

Dear Members of the Board of Supervisors:

We are requesting a CEQA Hearing for the above captioned subject  
property. The City Planning Department has issued a CEQA

CATEGORICAL EXEMPTION DETERMINATION (CASE NOS. 2014.



1497D AND 2014.1498D) by Mary Woods on December 5, 2014.

We are hereby appealing the City Planning Department Exemption based on its stated conclusion that "The project is categorically exempt under CEQA".

The subject property is located at 2655 Broderick Street, on the West side of Broderick, bounded by Green Street to the North and Vallejo Street to the South. It was constructed around 1926. It is the uphill neighboring property to 2701 Green Street, an Historical Resource 12 unit apartment building constructed in 1913, as one of the earliest apartment buildings built in the Cow Hollow District of San Francisco.

#### BACKGROUND

2655 Broderick is a single family home. Since late 1980's it has been sold and resold several times and each new owner engaged in construction of exterior additions to the building structure without proper permits and not with standing City review and prohibition of building these structures. These structures were accompanied by the raising of the soil level of up to 2 feet all along the 80 foot retaining wall of 2701 Green Street. These structures negatively impact 2701 Green street, its downhill neighbor, and have damaged the property.

1. The structures built surcharge the retaining wall of 2701 Green Street.
  - a. A planter constructed to abut the retaining wall (the issue only partially resolved) surcharges the retaining wall.
  - b. Rear deck stairs and foundation abutting the retaining wall of 2701 Green Street continue to surcharge the wall.
  - c. Raised soil levels at 2655 Broderick along the 80 foot open air retaining wall of 2701 Green Street surcharge the retaining wall.
2. Lack of proper drainage at 2655 Broderick and drainage directed against the property line of 2701 Green Street.
  - a. Raised soil level causes water to overflow onto 2701 Green Street and to continue to flow onto the public sidewalk of Green Street,
  - c. Soil - wood contact has led to decay to the property-line wood wall and framing of 2701 Green.
3. Encroachment across the property line at the roof in conjunction with an illegal roof deck prevent re-roofing of 2701 Green Street and prohibit repair of water penetration and the prevention of dry rot and mold.

The owners of 2655 Broderick request through these Permit Applications to legalize the existing structures AS IS.

The environmental impact of the raised soil level at 2655 Broderick, the lack of proper drainage and the overflow of water onto 2701 Green Street and onto the public sidewalk of Green Street present an environmental hazard.

2655 Broderick Street was built in 1926 and is over 45 years old and can be therefore to be considered as if an Historical Asset. The current exterior construction and proposed changes negatively impact the adjoining Historical Resource, 2701 Green Street.

There will be additional evidence presented to the Board of Supervisors eleven days prior to the Hearing date as provided by the Rules.

I attach the briefs submitted to the Planning Commission for the Hearing held on December 18, 2014. These briefs contain the technical engineering reports dealing with the geotechnical issues of the soil level and the surcharge of the retaining wall of 2701 Green Street.

Respectfully submitted,

  
Irving Zaretsky  
Appellant



# SAN FRANCISCO PLANNING DEPARTMENT

## CEQA Categorical Exemption Determination

### PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
2655 Broderick Street		0955/002	
Case No.	Permit No.	Plans Dated	
2014.1497D & 2014.1498D	2013.09.12.6709 & 2013.09.12.6711	June 6, 2014	
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval. BPA# 2013.09.12.6709 is to legalize an existing roof deck and stair penthouse; add new one-hour fire-rated wall along the south property line of the roof deck; and increase the existing parapet wall/guardrail from 38 inches to 42 inches in height (Exempt under CEQA Class 1). BPA# 2013.09.12.6711 is to legalize an existing second-story rear deck, and stairs connecting the deck to grade (this permit work is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment).			

### STEP 1: EXEMPTION CLASS

#### TO BE COMPLETED BY PROJECT PLANNER

<b>*Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.*</b>	
<input checked="" type="checkbox"/>	<b>Class 1 – Existing Facilities.</b> Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	<b>Class 3 – New Construction/ Conversion of Small Structures.</b> Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office-structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class _____

### STEP 2: CEQA IMPACTS

#### TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an <i>Environmental Evaluation Application</i> is required.	
<input type="checkbox"/>	<b>Transportation:</b> Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	<b>Air Quality:</b> Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone).
<input type="checkbox"/>	<b>Hazardous Materials:</b> If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i>Maheer program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap &gt; Maheer layer).</i>
<input type="checkbox"/>	<b>Soil Disturbance/Modification:</b> Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	<b>Noise:</b> Does the project include new noise-sensitive receptors (schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) fronting roadways located in the noise mitigation area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Noise Mitigation Area)
<input type="checkbox"/>	<b>Subdivision/Lot Line Adjustment:</b> Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)
<input type="checkbox"/>	<b>Slope = or &gt; 20%:</b> Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, or grading on a lot with a slope average of 20% or more? <i>Exceptions: do not check box for work performed on a previously developed portion of site, stairs, patio, deck, or fence work.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required
<input type="checkbox"/>	<b>Seismic: Landslide Zone:</b> Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, grading – including excavation and fill on a landslide zone – as identified in the San Francisco General Plan? <i>Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required
<input type="checkbox"/>	<b>Seismic: Liquefaction Zone:</b> Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1000 sq ft, shoring, underpinning, retaining wall work, or grading on a lot in a liquefaction zone? <i>Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required
<input type="checkbox"/>	<b>Serpentine Rock:</b> Does the project involve any excavation on a property containing serpentine rock? <i>Exceptions: do not check box for stairs, patio, deck, retaining walls, or fence work.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Serpentine)
<b>*If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an <u>Environmental Evaluation Application</u> is required, unless reviewed by an Environmental Planner.</b>	
<input type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional):	

**STEP 3: PROPERTY STATUS – HISTORIC RESOURCE TO BE COMPLETED BY PROJECT PLANNER**

<b>PROPERTY IS ONE OF THE FOLLOWING:</b> (refer to Parcel Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input checked="" type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

**STEP 4: PROPOSED WORK CHECKLIST  
TO BE COMPLETED BY PROJECT PLANNER**

<b>Check all that apply to the project.</b>	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input checked="" type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the <i>Residential Design Guidelines</i> .
<input checked="" type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
<b>Note: Project Planner must check box below before proceeding.</b>	
<input type="checkbox"/>	Project is not listed. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project does not conform to the scopes of work. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves four or more work descriptions. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves less than four work descriptions. <b>GO TO STEP 6.</b>

**STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW  
TO BE COMPLETED BY PRESERVATION PLANNER**

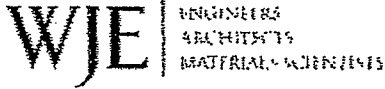
<b>Check all that apply to the project.</b>	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input checked="" type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input checked="" type="checkbox"/>	7. Addition(s), including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .

<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):
<input type="checkbox"/>	9. Other work that would not materially impair a historic district (specify or add comments):  (Requires approval by Senior Preservation Planner/Preservation Coordinator) _____
<input type="checkbox"/>	10. Reclassification of property status to Category C. (Requires approval by Senior Preservation Planner/Preservation Coordinator) a. Per HRER dated: _____ (attach HRER). b. Other (specify):
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.	
<input type="checkbox"/>	Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature: Shelley Caltagirone _____	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION**

**TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	Further environmental review required. Proposed project does not meet scopes of work in either (check all that apply): <input type="checkbox"/> Step 2 – CEQA Impacts <input type="checkbox"/> Step 5 – Advanced Historical Review <b>STOP! Must file an <i>Environmental Evaluation Application</i>.</b>
<input checked="" type="checkbox"/>	No further environmental review is required. The project is categorically exempt under CEQA.
Planner Name: <b>mary woods</b>	Signature: <b>Mary Woods 12/5/2014</b>
Project Approval Action: <b>Planning Commission Hearing</b> If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	
Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.	



Wiss, Janney, Elstner Associates, Inc.  
2000 Powell Street, Suite 1650  
Emeryville, California 94608  
510.428.2907 tel | 510.428.0456 fax  
www.wje.com

Via Email: [iiz@pacbell.net](mailto:iiz@pacbell.net)

December 10, 2014

San Francisco Planning Commission  
C/O Mary Woods  
San Francisco, California 94115

Re: Planning Commission Hearing on 2655 Broderick  
WJE No. 2009.4685.0

Dear Commissioners and Ms. Woods:

In preparation for the Planning Commission Hearing, December 18, 2014, at which time you will consider Discretionary Review Cases 14.1497D (attached as Exhibit 1) and 14.1497D (attached as Exhibit 2), I would like to submit the following opinions on the property-line issues between 2701 Green and 2655 Broderick

There are four substantive issues in the long-running conflict between the owners of neighboring properties at 2701 Green and 2655 Broderick, only one of which is partially resolved. In short, those issues involve damage to the property at 2701 Green from various construction projects at 2655 Broderick, including:

- Surcharges against the retaining wall of 2701 Green property from a planter (partially resolved) rear deck stairs and foundation, and raised soil levels.
- Drainage directed against the property-line wall of 2701 Green due to landscaping
- Soil-wood contact that has led to decay to the property-line wood wall and framing of 2701 Green.
- Encroachment across the property line at the roof in conjunction with an illegal roof deck.

Headquarters & Laboratories—Northbrook, Illinois  
Atlanta | Austin | Boston | Chicago | Cleveland | Dallas | Denver | Detroit | Honolulu | Houston  
Los Angeles | Minneapolis | New Haven | New York | Princeton | San Francisco | Seattle | Washington, DC



Each of the issues was either caused by or related to a code violation or unpermitted construction at 2655 Broderick, owned by Mr. Mark Casey, and each of them has encroached or caused property damaged at 2701 Green, owned by Mr. Irving Zaretsky. The two Discretionary Review applications before you involve all the issues.

**DR CASE NUMBER 14.1498D Concerning Permit Application 2013.0912.6711**

This Permit Application to legalize an existing exterior staircase is only one of several filed by Mr. Casey (including 2011.0912.4340, 2011.1201.9984, 2012.0319.6361, and 2013.0918.7182) attempting to legalize construction originally built under PA 8504468. The 1985 permit expired without a final inspection probably because the rear stairs violated the specific terms of the permit by encroaching 8 feet into the 25-foot back yard setback. In the most recent applications the applicant has begun maintaining that the existing stairs are permissible under Planning Code exemption, 36 (c) (14). It is not at all clear that the stairs squeeze by the encroachment issue; we have not been able to inspect them and we have no information that anyone from the city has, either.

However, potential setback encroachment is not the only reason why this question is before you. When the stairs were installed adjacent to the property line, they were founded on fill that added significant surcharge to the unreinforced concrete foundation wall of 2701 Green. The foundation and stairs themselves also imposed surcharge loads on the foundation wall of 2701 Green. A general view of the back stairs is shown in Figure 1. The additional soil fill and an unpermitted patio has directed water from 2655 Broderick against the walls and foundation of 2701 Green. Lastly, the soil fill was pushed against the wood framing of the wall causing decay of the wood siding and framing, as shown in Figures 2 and 3. The existence and cause of the

decay is not, as far as we know, disputed by Mr. Casey, but his experts have taken issue over the significance of the soil and foundation surcharge.

In 2010, among other recommendations, I recommended, that the stairs be removed, the wall and framing be repaired, and that the stairs be relocated or reconfigured to conform to various Building, Planning and Plumbing (drainage) Code requirements. My report, dated June 13, 2010 is attached as Exhibit 3. Instead of agreeing to these reasonable recommendations, the Mr. Casey has sought only to get the existing nonconforming construction permitted, leaving the question of repair of the decay 2701 Green and future protection of the wood wall unaddressed.

Subsequent investigations of the conditions along the property line by WJE, Frank Rollo, and Rodrigo Santos found that the surcharges due to the stairs, excess soil fill and a nearby large concrete planter (also built without a permit) apply additional bending and overturning stresses to the concrete foundation/retaining wall of 2701 Green. The concrete retaining wall is a 1913 unreinforced gravity wall braced by the first floor framing where the four story building rests on it at the east and west ends of the property, and is an 8-foot-high cantilevered wall in the approximately 40-foot-long central section. A geotechnical investigation for Mr. Casey by Patrick Shires confirmed substantial recent fill next to the retaining wall. The four test pits found that the recent fill (Af<sub>3</sub> by his terminology) ranged from at least 1 foot to approximately 2 feet. Mr. Shires' report dated February 3, 2012 is attached as Exhibit 4. Mr. Frank Rollo reviewed the information supplied by the Shires report, and provided his analysis in two letters, March 14, 2012, and August 28, 2012, attached as Exhibits 5 and 6.

Based on Mr. Shires' data, in the area of the planter, the combined surcharge from the fill and the planter increased the lateral pressure against the cantilevered portion of the wall by between 120% and 210%, and increased the overturning moment by between 310% and 560%. WJE's report, dated November 4, 2012, is attached as Exhibit 7. Without the planter load, and in the areas where the walls are braced by the building, the additional lateral load will be smaller—

but not insignificant. Also, in the braced area, there will be no overturning moment but the horizontal bending moment on the wall will be increased. No one knows the capacity of the wall, but in the cantilevered section there are indications that it has been subject to bending forces from the surcharge that have exceeded its cracking strength, including vertical cracks and deflection of the top of the wall. In addition, the recent soil fill has caused leakage into the basement garage of 2701 Green.

Lastly, the exposed wood-framed property line wall is vulnerable to weather and water, and Mr. Casey must remain cognizant of that in his landscaping choices. Care must be taken that sprinklers do not spray the wall, and trees should not be of a type that are not too close to the wall or so large they abrade the wall in the wind.

The parties have come to terms on the removal of the planter and construction of a new one that will not surcharge the retaining wall. The permit application for the new planter design is pending with the Building Department. However, the soil level remains contentious in terms of its surcharge on the wall of 2701 Green, soil-wood contact, and its effects on drainage.

I recommend that the Planning Commission instruct Mr. Casey to comply with the following:

- Remove the existing deck stairway and foundation.
- Provide access to Mr. Zaretsky's contractors to repair the existing wall decay of 2701 Green.
- Pay for the repair of the decay repair.
- Re-grade the soil adjacent to the property line to remove an average of 18-inches of fill.
- Provide positive drainage for runoff towards 2701 Green.
- If the stairs are to be reinstalled within the zone of influence of the retaining wall, design the footings so that they will not surcharge the wall.
- Landscaping must be kept small and held away from the property line wall.
- Irrigation must be drip or far enough from wall to not spray water on the wall

**CASE NUMBER 14.1497D. Permit Application 2013.0912.6709**

This Permit Application to legalize an illegal roof deck at 2655 Broderick is only one of several (including 8802566, 9009756, 9206713, 9216894, 9501127, 2012.0514.0394, P332891, and E140669). The building department notes on many of the permit applications and drawings required that the planned deck be deleted from the permit or the existing deck removed from the building. However, it is clear that the deck, rather than being deleted or removed was built and rebuilt multiple times. The current Permit Application seeks to legalize the existing roof deck with minor modifications to the south property-line parapet and east handrail.

The neighbors whose views and uses of their own properties are affected by the presence of this deck have consistently opposed it. The Building Department and Planning Commission should not approve this scofflaw roof deck after so very many episodes of noncompliance and in the face of neighborhood opposition.

The second reason for this Discretionary Review is that the north property line parapet encroaches onto 2701 Green, preventing the owner of 2701 Green from servicing his property-line parapet and potentially creating a legal easement. The parapet wall framing was installed along the edge of the property-line wall of 2655 Broderick. Subsequent siding and trim on the south side of the parapet framing crosses the apparent property line by at least one inch, and perhaps as much as two inches. Figure 4 illustrates this condition.

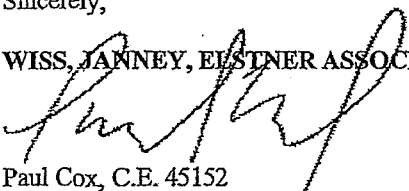
I recommend that the Planning Commission instruct Mr. Casey to comply with the following:

- Remove the south parapet wall.
- If the deck is ultimately permitted, the new parapet wall is to be constructed within the property of 2655 Broderick.
- Comply with the detailed answer to Question 3, Page 9 of the Discretionary Review

Application.

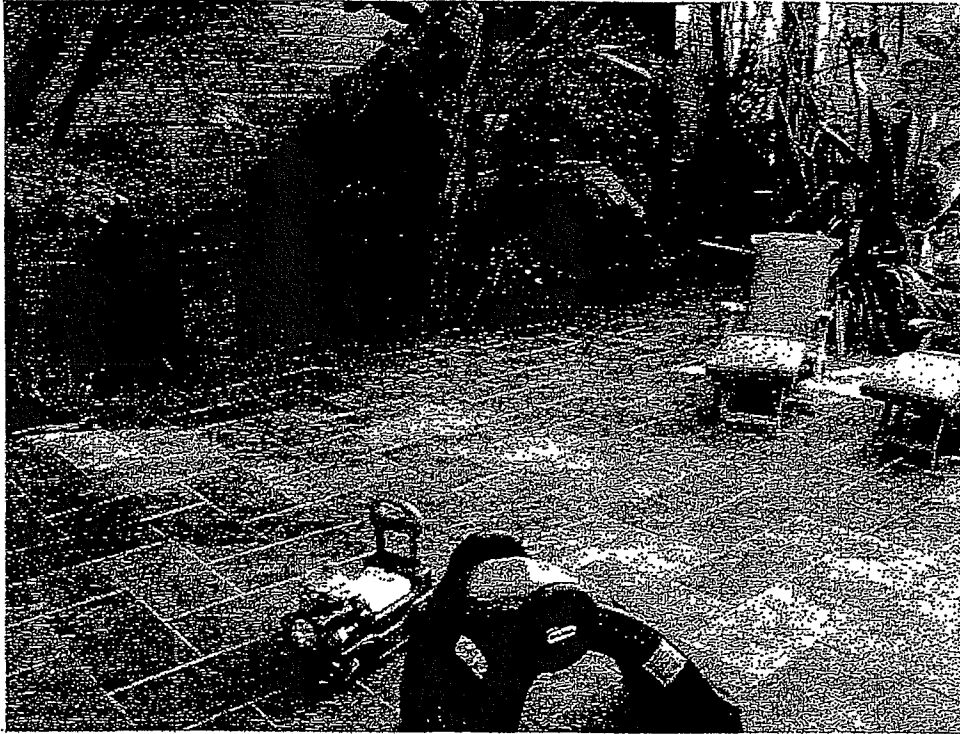
Sincerely,

WISS, JANNEY, ELLSTNER ASSOCIATES, INC.

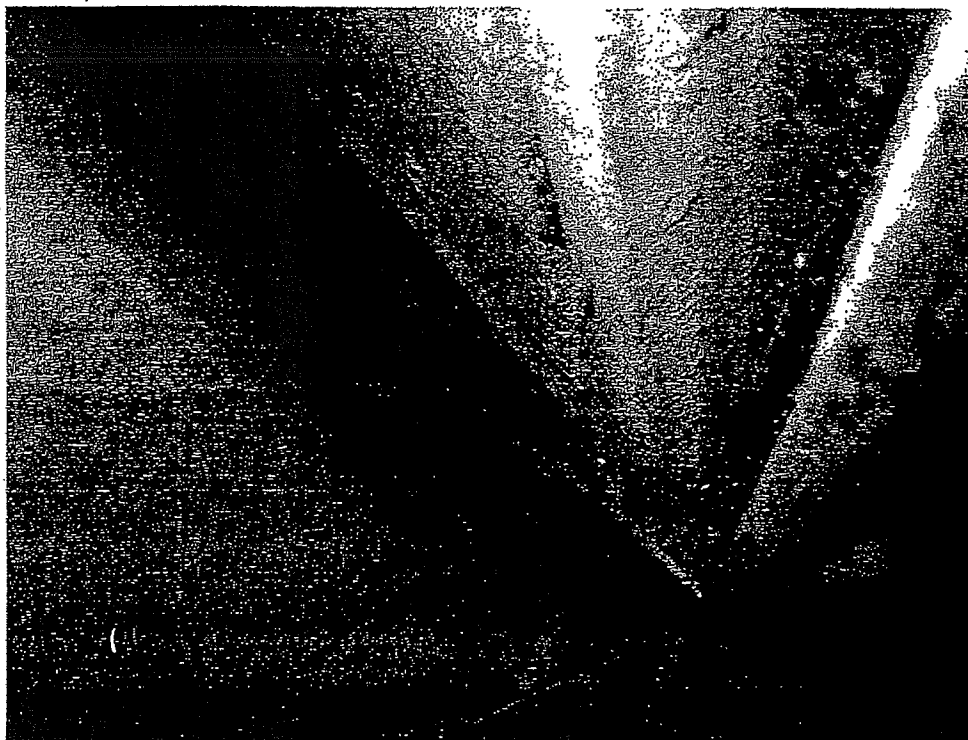
  
Paul Cox, C.E. 45152

Associate Principal

**FIGURES**



*Figure 1. View of deck stairs and property-line wall*



*Figure 2. Soil-wood contact between stair foundation and wood property-line wall has caused decay..*



*Figure 3. Soil-wood contact caused decay in property-line wall.*



*Figure 4. 2655 Broderick parapet wall siding and trim encroaching across property line.*

**EXHIBITS:**

- 1: Discretionary Review Application 14.1498D (Rear Stairs)
- 2: Discretionary Review Application 14.1497D (Roof Deck)
- 3: 2010 WJE Report
- 4: 2012 Shires Report
- 5: 2012-03 Rollo Letter
- 6: 2012-08 Rollo Letter
- 7: 2012 WJE Report



Application for Discretionary Review

14-14980

# APPLICATION FOR Discretionary Review

## 1. Owner/Applicant Information

DR APPLICANT'S NAME: Irving Zaretsky

DR APPLICANT'S ADDRESS: 2701 Green Street ZIP CODE: 94123 TELEPHONE: (415) 922-7609

PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME: Mark Casey

ADDRESS: 2655 Broderick Street ZIP CODE: 94123 TELEPHONE: ( )

CONTACT FOR DR APPLICATION: Same as Above  Irving Zaretsky  
ADDRESS: 3111 Jackson Street ZIP CODE: 94115 TELEPHONE: (415) 922-7609  
EMAIL ADDRESS: iiz@pacbell.net

## 2. Location and Classification

STREET ADDRESS OF PROJECT: 2655 Broderick Street ZIP CODE: 94123

CROSS STREETS: Green and Vallejo

ASSESSOR'S BLOCK/LOT: 0955 /002 ZONING DISTRICT: RH-1/40-X

## 3. Project Description

Please check all that apply  
Change of Use  Change of Hours  New Construction  Alterations  Demolition  Other

Additions to Building: Rear  Front  Height  Side Yard

Present or Previous User: Residential

Proposed Use: Residential

Building Permit Application No: 201309126711 Date Filed: September 12, 2013

14. 14980

4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

5. Changes Made to the Project as a Result of Mediation

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.

SEE ATTACHMENT

## Discretionary Review Request

In the space below and on separate paper, if necessary, please present facts sufficient to answer each question.

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.

SEE ATTACHMENT

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

SEE ATTACHMENT

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

SEE ATTACHMENT

~~14-14970~~

Discretionary Review Application for  
2655 Broderick, PA 2013.0912.6709  
September 24, 2014

incorrect  
permit #  
should  
be  
2013.  
09.12.  
6711

**Additional information:**

**Question 5 page 8:** This project was in litigation and withdrawn on October 24, 2012, at the request of Tom Hui and DBI to allow them to address the issues without "obstacles in the way" which was the term used by Tom Hui for the litigation.

Mediation was by pre-trial conference and mediation with Judge Quidachay in San Francisco Superior Court. None of the issues concerning this property were resolved. The case was to proceed to trial, but was withdrawn by the plaintiff, Mr. Zaretsky, without prejudice in order to allow the SF Building and Planning Departments to resolve the three Notices of Violation. The NOV related to this DR application is 201139322.

**Question 1 page 9:** The property adjacent to and downhill from the subject property at 2655 Broderick is 2701 Green Street, and they share a long property line. The uphill side of 2701 Green has a unreinforced concrete gravity wall that functions as a combination braced foundation and retaining wall for a portion of the building; and as an 8-foot high cantilevered retaining wall for that portion of the building that is a lightwell. In the last several years, this wall has been subjected to several unacceptable surcharges by construction on the 2655 Broderick property including (for purposes of this DR) non-conforming deck and stair structures in violation of the building permit and additional soil backfill. In addition, the soil backfill was placed in contact with the wood siding and framing of 2701 Green, which has caused decay. Submitted plans do not address a cure for the current surcharge and merely want to legalize existing structures and backfill that will continue to surcharge the retaining wall after completion.

In addition, the surcharges direct rainwater from the 2655 Broderick property towards and onto the building at 2701. The current Permit Application does not acknowledge, much less effectively address, drainage issues that have been caused by the surcharges.

The building at 2701 Green is listed as Historical Asset. It was built in 1913, is one of the oldest apartment buildings in Cow Hollow, and exhibits distinctive architecture. It has been maintained to period in exterior and interior finishes. It was previously owned by Judge Cabbanas who ordered the fires set along Van Ness after the 1906 Quake. The unreinforced concrete gravity wall on which this historic building rests cannot sustain the surcharge currently imposed on it by unpermitted, uninspected, and un-engineered improvements from the uphill property at 2655 Broderick, namely, as much as 2-feet of additional soil; trees whose root systems abut the retaining wall; the stair and deck footing; and the additional water exposure. All of these surcharges land within in the zone of influence of the wall (generally recognized to be within the area adjacent to the retaining wall equal to 1-1/2 times its height).

On a related matter, as presented, the drawings, notes, and calculations for this permit application are incorrect in substantial and consequential details. The original approved permit, PA #8504468/3, taken out by a previous owner, was clear that the stairs could not encroach into the backyard closer than 25 feet from the rear property

←  
inexact  
permit  
# is  
cited

line. However, the stairs were built to within 17 feet of the property line, and the permit expired without a final inspection. The current permit application seeks to finesse the Planning Code violation utilizing an exception that allows encroachments for structures less than 3 feet above grade. It is my belief that the measurements for this exception, as presented in the permit application, are incorrect on their own merits; however, without access to the property, I have not been able to confirm this. Additionally, the assumption that the current grade is the datum for the 3-foot height measurement is erroneous since the current grade must be reduced to alleviate the stresses on the adjacent retaining wall.

All of the above considerations are reasons for this DR request: as presented, the permit application documents are inaccurate, fail to conform to the SF Building or Planning Codes, and do not address the surcharge and drainage issues that gave rise to the NOV.

**Question 2 page 9:** 2701 Green Street will be negatively affected if this permit is issued in the following ways: 1) The surcharges in this section of the mutual property line have increased loads on the unreinforced gravity wall far beyond those it can be expected to withstand without damage. 2) The water from irrigation and rain is directed onto the wood framing of 2701 Green Street, onto the Green Street rear yard and sidewalk, and onto the tradesmen side entrance and walkway of the adjoining property to the northwest along on Green Street.

**Question 3, page 9:**

1. The Planning Department or Building Department should field inspect the property at 2655 Broderick to confirm the accuracy of the drawings and measurements. The permits validity rests in large part upon correcting incorrect measurements. If the drawings are proven to be consequentially incorrect, encroachment of the stairs into the rear yard will likely require a variance. If for no other reason, the proposed exception to the 25-foot setback rule is violated by measuring the height of the stairs from the existing grade instead of the corrected soil height which will be approximately 2 feet below the current grade.
2. The drawings, must show that stairs and footings to the rear deck will be removed to provide access to repair the decay of the wall and framing of 2701 Green.
3. If the stairs are to be rebuilt within the zone of influence of the retaining wall, the new stair and deck footings and landings must be founded deeply enough to eliminate any surcharge on the wall. Engineering calculations should be supplied to support the proposed footing design.
4. The drawings must address the space between the firewall/balustrade and the wood wall of 2701 Green by installing a properly designed flashing to prevent water intrusion between them.
5. The drawings must show reduction of the soil level within the zone of influence to the historic soil level approximately 2 feet below its current height.
6. The drawings must present an engineered landscaping and drainage plan that eliminates water flow against or across the property at 2701 Green.
7. Drawings must show that all trees along the retaining wall be removed, except for those planted in the planter (submitted under separate permit), and stipulate that no trees or shrubs capable of growing higher than 10 feet will be planted along the

*incorrect  
permit  
# is  
cited*

property line unless they are in a container engineered to prevent surcharge on retaining wall.

8. Drawings must stipulate that soil level adjacent to the retaining wall is to be kept at lower level in the future.
9. The plans should include the following notes:
  - A. ALL CONSTRUCTION TO BE CARRIED OUT BY LICENSED CONTRACTORS.
  - B. CONSTRUCTION IN CONTACT WITH 2701 GREEN TO OCCUR ONLY WITH THE CONSENT OF THE OWNER OF 2701 GREEN STREET.
  - C. CONSTRUCTION TO INCLUDE REMOVAL OF UP TO 2 FEET OF SOIL ADJACENT TO WALL TAPERING TO ZERO FEET 3-1/2 FEET FROM WALL.
  - D. OWNER OF 2701 GREEN STREET WILL BE ALLOWED ACCESS ANY REASONABLE TIMES TO INSPECT, REPAIR, AND PAINT PROPERTY LINE BLIND WALL AND UNDERLYING FRAMING AFTER THE DECK STAIRS, FOOTING, AND LANDING, HAVE BEEN REMOVED, AND THE GRADE HAS BEEN LOWERED.
  - E. THE OWNER OF 2701 GREEN STREET AND HIS PROFESSIONAL REPRESENTATIVES AND CONTRACTORS WILL BE GIVEN REASONABLE ACCESS TO THE SITE FOR INSPECTIONS AND REQUIRED REPAIRS THROUGHOUT THE CONSTRUCTION.
  - F. ALL FINAL PLANS FOR AND CHANGES OF DECK AND STAIRS ARE TO BE PROVIDED TO OWNER OF 2701 GREEN STREET FOR REVIEW PRIOR TO ISSUANCE OF PERMIT OR COMMENCEMENT OF CONSTRUCTION.
  - G. WOODEN WALL ALONG PORTION OF RETAINING WALL ADJACENT TO LIGHTWELL IS TO BE REPLACED BY OWNER OF 2701 GREEN STREET, BUT PAID FOR BY OWNER OF 2655 BRODERICK, PER PREVIOUS AGREEMENT.

14. 1498D

### Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required

Signature:



Date:



Print name, and indicate whether owner, or authorized agent:

*Owner*  
Owner / Authorized agent (circle one)

14-14980

# Discretionary Review Application Submittal Checklist

Applications submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and signed by the applicant or authorized agent.

- | REQUIRED MATERIALS (please check correct column)  | RECEIVED                            |
|---|-------------------------------------|
| Application, with all blanks completed  | <input checked="" type="checkbox"/> |
| Address labels (original), if applicable  | <input checked="" type="checkbox"/> |
| Address labels (copy of the above), if applicable   | <input checked="" type="checkbox"/> |
| Photocopy of this completed application   | <input checked="" type="checkbox"/> |
| Photographs that illustrate your concerns   | <input type="checkbox"/>            |
| Convenant or Deed Restrictions  | <input type="checkbox"/>            |
| Check payable to Planning Dept.   | <input checked="" type="checkbox"/> |
| Letter of authorization for agent   | <input checked="" type="checkbox"/> |
| Other: Section Plan, Detail drawings (i.e. windows, door entries, trim),<br>Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new<br>elements (i.e. windows, doors) | <input type="checkbox"/>            |

NOTES:  
 Required Material.  
 Optional Material.  
 Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

For Department Use Only  
Application received by Planning Department

By: *Brett Bell*

Date: *9/25/14*





# SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

14. 14980

## NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)

On September 12, 2013, the Applicant named below filed Building Permit Application No. 2013.09.12.6711 with the City and County of San Francisco.

PROPERTY INFORMATION		APPLICANT INFORMATION	
Project Address:	2655 Broderick Street	Applicant:	Mark Casey c/o Craig Nikitas
Cross Street(s):	Green and Vallejo Streets	Address:	2655 Broderick Street
Block/Lot No.:	0955/002	City, State:	San Francisco, CA 94123
Zoning District(s):	RH-1 / 40-X	Telephone:	(415) 810-5166

You are receiving this notice as a property owner or resident within 150 feet of the proposed project. You are not required to take any action. For more information about the proposed project, or to express concerns about the project, please contact the Applicant listed above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request the Planning Commission to use its discretionary powers to review this application at a public hearing. Applications requesting a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown below, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

PROJECT SCOPE		
<input type="checkbox"/> Demolition	<input type="checkbox"/> New Construction	<input checked="" type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input checked="" type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Residential	Residential
Front Setback	None	No change
Side Setbacks	None	No change
Building Depth	57 feet	No change
Rear Yard	43 feet	No change
Building Height	33 feet	No change
Number of Stories	3	No change
Number of Dwelling Units	1	No change
Number of Parking Spaces	1	No change
PROJECT DESCRIPTION		
The proposal is to modify stairs constructed under Building Permit Application No. 8504468. See attached plans.		
The issuance of the building permit by the Department of Building Inspection or the Planning Commission project approval at a discretionary review hearing would constitute as the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(f) of the San Francisco Administrative Code.		

For more information, please contact Planning Department staff:

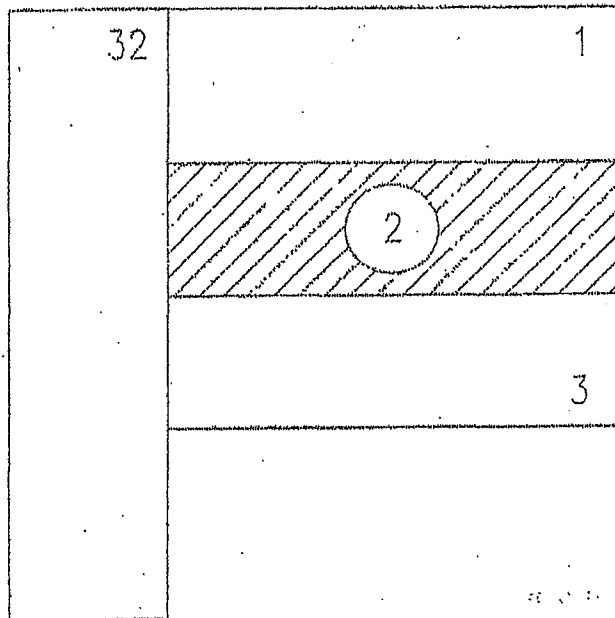
Planner: Mary Woods  
 Telephone: (415) 558-6315  
 E-mail: [mary.woods@sfgov.org](mailto:mary.woods@sfgov.org)  
 中文詢問請電: (415) 575-9010

Notice Date: 8/26/2014  
 Expiration Date: 9/25/2014

Para información en Español llamar al: (415) 575-9010

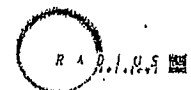
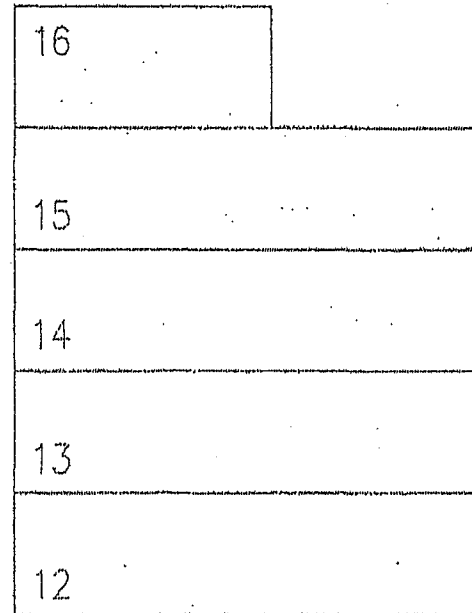
GREEN STREET

BLOCK 955



BRODERICK STREET

BLOCK 954



274 The Main Street, Suite 10  
 San Francisco, CA 94102  
 (415) 391-4274

BLOCK 955  
 LOT 2

San Francisco, CA



~~XXXXXXXXXX~~  
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JOB NO. DATE 1/10/07  
 0088002T DRAWN BY  
 CHECKED BY

DISCRETIONARY  
 REVIEW  
 AREA MAP

The information contained herein has been obtained from sources that we deemed reliable and current at the time of preparation. We have no reason to doubt its accuracy but we do not guarantee it.

14-14-07

14980

RADIUS SERVICES 1221 HARRISON ST #18 SAN FRANCISCO CA 94103 415-391-4775

BLOCK LOT	OWNER	OADDR	CITY	STATE	ZIP
0001 001	RADIUS SERVICES NO. 0955002T	3111 JACKSON ST	ZONECON	CA	0923
0001 002					
0001 003	RADIUS SERVICES	1221 HARRISON ST #18	SAN FRANCISCO	CA	94103
0001 004	IRVING ZARETSKY	2555 32ND AVE	SAN FRANCISCO	CA	94116
0001 005					
0954 012	KALES TRS	2634 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 013	MICHAEL KRAUTKRAMER	2640 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 014	WOEBER TRS	2646 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 015	MARY-ANNA RAE	PO BOX 31515	SAN FRANCISCO	CA	94131-0515
0954 015	OCCUPANT	2652 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954 015	BEN-HALIM HAYA	2691 GREEN ST	SAN FRANCISCO	CA	94123-4606
0955 001	KARDOS-ZARETSKY	2701 GREEN ST	SAN FRANCISCO	CA	94123-4639
0955 001	OCCUPANT	2701 GREEN ST #1	SAN FRANCISCO	CA	94123-4639
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0955 032	KIESELHORST TRS	2731 GREEN ST	SAN FRANCISCO	CA	94123-4668
9999 999					

14-1497D

# APPLICATION FOR Discretionary Review

## 1 Owner/Applicant Information

APPLICANT'S NAME: Irving Zaretsky  
APPLICANT'S ADDRESS: 2701 Green Street ZIP CODE: 94123 TELEPHONE: (415) 922-7609

PROPERTY OWNER WHO IS DOING THE PROJECT OR WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME: Mark Casey  
ADDRESS: 2655 Broderick Street ZIP CODE: 94123 TELEPHONE: ( )

CONTACT FOR THIS APPLICATION: Same as Above  Irving Zaretsky  
ADDRESS: 3111 Jackson Street ZIP CODE: 94115 TELEPHONE: (415) 922-7609  
E-MAIL ADDRESS: jiz@pacbell.net

## 2. Location and Classification

STREET ADDRESS OF PROJECT: 2655 Broderick Street ZIP CODE: 94123  
CROSS STREETS: Green and Vallejo

ASSESSOR'S BLOCK/LOT: LOT DIMENSIONS: LOT AREA (SQ FT): ZONING DISTRICT: HEIGHT/BULK DISTRICT:

## 3. Project Description

Please check all that apply  
Change of Use  Change of Hours  New Construction  Alterations  Demolition  Other

Additions to Building: Rear  Front  Height  Side Yard   
Residential

Present or Previous Use: Residential

Proposed Use: Residential

Building Permit Application No. 2013.0912.6709

Date Filed: September 12, 2013

14. 14970

4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

5 Changes Made to the Project as a Result of Mediation

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.

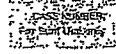
SEE ATTACHMENT

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# Discretionary Review Request

In the space below and on separate paper, if necessary, please present facts sufficient to answer each question.

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.

SEE ATTACHMENT

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how.

SEE ATTACHMENT

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

SEE ATTACHMENT

~~14-1490B~~

Discretionary Review Application for  
2655 Broderick, PA-201309126711  
September 24, 2014

← incorrect  
permits,  
should  
be  
2013.  
09.22.  
6709

Additional information:

**Question 5 page 8:** This project was in litigation and withdrawn on October 24, 2012, at the request of Tom Hui and DBI to allow them to address the issues without "obstacles in the way" which was the term used by Tom Hui for the litigation.

Mediation was by pre-trial conference and mediation with Judge Quidachay in San Francisco Superior Court. None of the issues concerning this property were resolved. The case was to proceed to trial, but was withdrawn by the plaintiff, Mr. Zaretsky, without prejudice in order to allow the SF Building and Planning Departments to resolve the three Notices of Violation. The NOV related to this DR application is 201168973.

**Question 1 page 9:** The property adjacent to and downhill from the subject property at 2655 Broderick is 2701 Green Street, and they share a long property line. 2655 Broderick has a roof deck specifically denied in two earlier permit applications, 8925489 and 9009756. The then owners ignored the City's denial and built the deck anyway. This deck included a roof-top hot tub and structural supports for it--all without drawings, permits, or inspections. Later, two separate permits were issued to remove the illegal deck--permit applications, 9206713 and 9216894. Those permits, too, were ignored. Moreover, the current owner has removed the hot tub, the old deck, and the old wind screens, and completely rebuilt the deck and screens without a permit or inspections.

Thus, for a very long time, the law has not been enforced. The current application seeks to legalize the existing illegal and non-conforming construction. The owners' failure to abide by the City's instructions, and lack of prior enforcement by the City alone are reasons enough for the Planning Department to undergo a thorough review of this permit application. To do otherwise will be to encourage scofflaws.

A second reason for this Discretionary Review Request is to address the current permit application's failure to address the existing deck's encroachment across the property line with 2701 Green Street. The existing windscreen is mounted on top of the property-line curb and the siding boards are over the outer edge of the parapet of 2701 Green Street, preventing access to the sheet metal coping. No permit should be issued authorizing encroachment onto a neighboring property.

Lastly, the previous permits denied authorization to install a roof deck at 2655 Broderick at least in part because all the neighbors opposed it. They still do. The City has a responsibility to consider the impact of new construction on the neighbors, and at this point, only a discretionary review stands in the way of this permit.

**Question 2 page 9:** 2701 Green Street will be negatively affected if this permit is issued in the following ways: 1) The encroachment impinges onto the neighboring property denying the owner of 2701 access to his property, and if not reversed, will effectively give the owner of 2655 Broderick an easement. 2) The encroachment prevents the owner of 2701 from being able to service coping of his parapet.

← incorrect permit #

Question 3, page 9:

1. The Planning Department or Building Department should field inspect the property at 2655 Broderick to confirm the accuracy of the drawings and measurements. The permits validity rests in large part upon correcting incorrect measurements. If the drawings are proven to be consequentially incorrect, they should be corrected prior to issuance of the permit.
2. The drawings should show removal of the existing property-line screen wall and, if the deck is approved, its relocation fully behind the property line.
3. If a permit for the roof deck is issued, the drawings should specify that a hot tub is specifically excluded.
4. Once the wall is removed or relocated, the drawings should show a properly designed coping and counterflashing to cover the parapet of 2701 Green Street and the space between the buildings.
5. The plans should include the following notes:
  - A. ALL CONSTRUCTION TO BE CARRIED OUT BY LICENSED CONTRACTORS.
  - B. CONSTRUCTION IN CONTACT WITH 2701 GREEN TO OCCUR ONLY WITH THE CONSENT OF THE OWNER OF 2701 GREEN STREET.
  - C. CONTRACTOR OR INSPECTOR ACCESS TO THE ROOF OF 2701 GREEN STREET IS TO BE MADE ONLY WITH THE SPECIFIC PERMISSION OF THE OWNER OF 2701 GREEN STREET. SUCH PERMISSION WILL NOT BE UNREASONABLY WITHHELD.
  - D. THE ROOF OF 2701 GREEN STREET WILL BE FULLY PROTECTED IN THE AREA OF ANY CONSTRUCTION.
  - E. THE ROOF OF 2701 GREEN STREET WILL NOT BE USED FOR STAGING OR STORAGE OF MATERIALS.
  - F. THE OWNER OF 2701 GREEN STREET AND HIS PROFESSIONAL REPRESENTATIVES AND CONTRACTORS WILL BE GIVEN REASONABLE ACCESS TO THE SITE FOR INSPECTIONS AND REQUIRED REPAIRS THROUGHOUT THE CONSTRUCTION.
  - G. ALL FINAL PLANS FOR AND CHANGES OF ROOF DECK ARE TO BE PROVIDED TO OWNER OF 2701 GREEN STREET FOR REVIEW PRIOR TO ISSUANCE OF PERMIT OR COMMENCEMENT OF CONSTRUCTION.



14-2970

### Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature:



Date:

9/25/14

Print name, and indicate whether owner, or authorized agent:

*owner*

Owner / Authorized Agent (circle one)

14. 1497D

# Discretionary Review Application Submittal Checklist

Applications submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and signed by the applicant or authorized agent.

REQUIREMENTS (Please check correct column)	DR APPLICATION
Application, with all blanks completed	<input checked="" type="checkbox"/>
Address labels (original), if applicable	<input checked="" type="checkbox"/>
Address labels (copy of the above), if applicable	<input checked="" type="checkbox"/>
Photocopy of this completed application	<input checked="" type="checkbox"/>
Photographs that illustrate your concerns	<input type="checkbox"/>
Covenant or Deed Restrictions	<input type="checkbox"/>
Check payable to Planning Dept.	<input checked="" type="checkbox"/>
Letter of authorization for agent	<input checked="" type="checkbox"/>
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	<input type="checkbox"/>

NOTES:

Required Material

Optional Material

Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street

For Department Use Only

Application received by Planning Department:

By: *[Signature]*

Date: 9/25/14



**SAN FRANCISCO  
PLANNING DEPARTMENT**

14. 14970

1650 Mission Street Suite 400 San Francisco, CA 94103

**NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)**

On September 12, 2013, the Applicant named below filed Building Permit Application No. 2013.09.12.6709 with the City and County of San Francisco.

PROPERTY INFORMATION		APPLICANT INFORMATION	
Project Address:	2655 Broderick Street	Applicant:	Mark Casey c/o Craig Nikitas
Cross Street(s):	Green and Vallejo Streets	Address:	2655 Broderick Street
Block/Lot No.:	0955/002	City, State:	San Francisco, CA 94123
Zoning District(s):	RH-1 / 40-X	Telephone:	(415) 810-5165

You are receiving this notice as a property owner or resident within 150 feet of the proposed project. You are not required to take any action. For more information about the proposed project, or to express concerns about the project, please contact the Applicant listed above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request the Planning Commission to use its discretionary powers to review this application at a public hearing. Applications requesting a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown below, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

PROJECT SCOPE		
<input type="checkbox"/> Demolition	<input type="checkbox"/> New Construction	<input checked="" type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input checked="" type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input checked="" type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Residential	Residential
Front Setback	None	No change
Side Setbacks	None	No change
Building Depth	57	No change
Rear Yard	43 feet	No change
Building Height	33 feet	No change
Number of Stories	3	No change
Number of Dwelling Units	1	No change
Number of Parking Spaces	1	No change
PROJECT DESCRIPTION		
The proposal is to (1) legalize an existing 425 square-foot roof deck and stair penthouse; (2) add an one-hour fire-rated parapet wall along the south property line of the roof deck; and (3) modify the existing parapet wall/guardrail from 38 inches to 42 inches in height. See attached plans.		
The issuance of the building permit by the Department of Building Inspection or the Planning Commission project approval at a discretionary review hearing would constitute as the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.		

For more information, please contact Planning Department staff:

Planner: Mary Woods  
 Telephone: (415) 558-6315  
 E-mail: mary.woods@sfgov.org  
 中文詢問請電: (415) 575-9010

Notice Date: 8/26/2014  
 Expiration Date: 9/25/2014

Para información en Español llamar al: (415) 575-9010

RADIUS SERVICES BELIEVES THAT  
THE INFORMATION CONTAINED HEREIN

RADIUS SERVICES BELIEVES THAT  
THE INFORMATION CONTAINED HEREIN

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WHILE NOT GUARANTEED HAS BEEN  
SECURED FROM SOURCES DEEMED  
RELIABLE

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1221 HARRISON ST #18  
SAN FRANCISCO CA 94103

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1221 HARRISON ST #18  
SAN FRANCISCO CA 94103

0001/004  
IRVING ZARETSKY  
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SAN FRANCISCO CA 94114

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KALES TRS  
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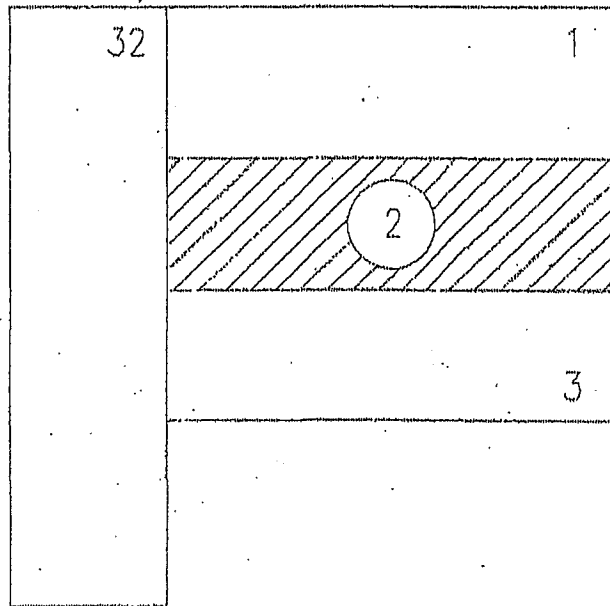
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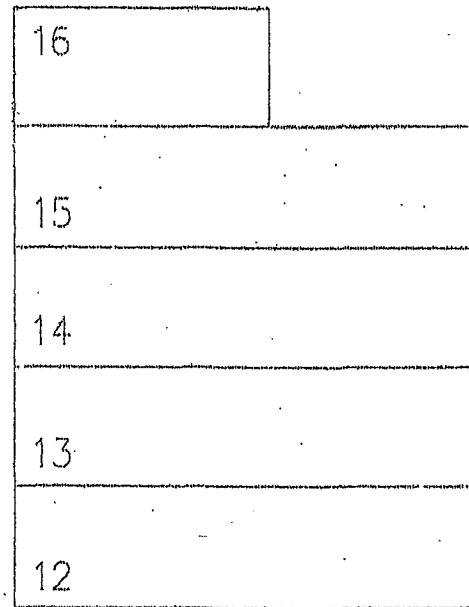
GREEN STREET

BLOCK 955



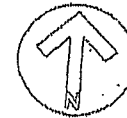
BRODERICK STREET

BLOCK 954



14970  
 (415) 971-1170

BLOCK 955  
 LOT 2  
 San Francisco, CA



JOB NO. DATE 12/09/21  
 0858002T DRAWN BY UC  
 CHECKED BY UC

DISCRETIONARY  
 REVIEW  
 AREA MAP



The information contained herein has been obtained from sources that we deemed reliable and current at the time of preparation. We have no reason to doubt its accuracy but we do not guarantee it.

14-14970





February 3, 2012  
E5270

Mr. James Biernat, Esq.  
JAMES BIERNAT ATTORNEY AT LAW  
2121 Ardmore Road  
San Carlos, California 93446

**SUBJECT: Geotechnical Investigation of Northern Side Yard Improvements**  
**RE: 2655 Broderick Street**  
San Francisco, California

Dear Mr. Biernat:

With this letter report, Cotton, Shires and associates, Inc. (CSA) is pleased to provide you with the results of our geotechnical investigation of improvements made to the northern side yard at 2655 Broderick Street in San Francisco, California. In this letter, we discuss the scope of work we conducted, our findings and conclusions, recommendations and the limitations of our investigation.

#### SCOPE OF WORK

As part of our investigation, we conducted the following tasks:

- Review of regional and site specific documents,
- Subsurface exploration (hand-excavated test pits),
- Laboratory testing of representative samples,
- Engineering analysis of the resulting data,
- Formulation of conclusions and recommendations, and
- Preparation of this letter report.

#### FINDINGS

##### Background

Based on our review of documents, it appears that the lots comprising 2655 Broderick Street and the adjoining lot to the north, 2701 Green Street, were created

---

Northern California Office  
330 Village Lane  
Los Gatos, CA 95030-7218  
(408) 354-5542 • Fax (408) 354-1852

Central California Office  
6417 Dogtown Road  
San Andreas, CA 95249-9640  
(209) 736-4252 • Fax (209) 736-1212

Southern California Office  
550 St. Charles Drive, Suite 108  
Thousand Oaks, CA 91360-3995  
(805) 497-7999 • Fax (805) 497-7933

approximately 100 years ago by cutting on the upslope (south) sides and filling on the downslope (north) sides, and constructing a concrete gravity retaining wall of about 7.5 to 7.9 feet in height along the property line between the two lots. A single family residence was constructed on the Broderick property and an apartment building was constructed on the Green Street property. Subsequently (after 1990), additional improvements were constructed on the Broderick property, including a deck with a rear staircase and a concrete planter box containing trees along the northern side yard of 2655 Broderick Street. Concern has been expressed by the owner of the Green Street property regarding potential impacts that the loads these structures might place on the old gravity retaining wall at the property line. Consequently, we conducted this geotechnical investigation to evaluate that concern.

### Subsurface Exploration

We excavated a total of four (4) test pits (TP-1 through TP-4) in the northern side yard of 2655 Broderick Street in the locations shown on Figure 1 (attached).

TP-1 (Figure 2) was located along the western end of the deck stairs landing. Due to abundant large tree roots, this test pit was terminated at a depth of about 1.3 feet. The concrete footing for the landing extended deeper than the test pit and the earth materials encountered were silty sandy artificial fill (designated Af3).

TP-2 was located at the east end of the deck staircase footing. Because irrigation lines were encountered in this test pit, it was abandoned and backfilled without logging it.

Test Pit TP-3 (Figure 3) was located at the western end of the concrete planter box and extended to a depth of about 3.9 feet. Bedrock (sandstone of the Franciscan Complex) was encountered at a depth of about 3.5 feet beneath the ground surface. We encountered three types of artificial fill (designated Af1, Af2 and Af3) in this test pit. Af1, the deepest artificial fill, consisted of silty sand with clay. This fill abutted and truncated Quaternary dune sand which was found above the bedrock with a thickness of about 1 foot. Above the Af3 and dune sand was Af2, artificial fill consisting of silty sand containing significant fines content. The footing for the planter box was founded in this fill material with additional artificial fill, Af1, placed on the retaining wall side of the planter box against the bottom of the wooden fence constructed on top of the retaining wall. The Af3 fill consisted of silty sand. Test pit

TP-4 (Figures 4 and 5) was excavated along the side of the middle of the staircase footing to a depth of about 3.9 feet. In it, we encountered the three fill types discussed above as well as Quaternary dune sand over native sandstone bedrock of the Franciscan Complex, encountered at a depth of about 3.6 feet. The dune sand tapered down to nil thickness on the side of the test pit nearest the retaining wall. On this side of the test pit,

Af1 underlies the deck staircase footing above the bedrock with a thickness of about 1 foot. A thickness of about 0.5 foot of Af2 is directly under the staircase footing and above the Af1 material.

#### Laboratory Testing

Laboratory tests were conducted on representative soil samples of the earth materials encountered in the test pits, including moisture content, wet and dry unit weight determination, Atterberg limits and direct shear strength testing. Based on these tests, the deepest artificial fill, Af1, was found to have moisture contents of 12.6% to 15.8%, wet unit weights of 114.8 to 126.3 pcf, dry unit weights of 101.0 to 109.1 pcf, a liquid limit of 43 and plasticity index (PI) of 27 and a drained shear strength of  $\phi = 28.1$  degrees, cohesion = 275 psf. Af2 was found to have moisture contents of 16.4% to 19.4%, wet unit weights of 126.3 to 129.7 pcf, dry unit weights of 106.7 to 109.2 pcf and a drained shear strength of  $\phi = 27$  degrees, cohesion = 500 psf. Because it did not underlie footings, Af3 was not tested. The underlying bedrock was found to have moisture contents of 8.9% to 14.2%, wet unit weights of 124.4 to 138.1 pcf, dry unit weights of 114.2 to 124.3 pcf and a drained shear strength of  $\phi = 37.0$  degrees, cohesion = 1,700 psf.

#### Engineering Analysis

**Staircase Footing** - Based on the strength and distribution of earth materials beneath the staircase footing, most of the load from the footing is transferred to the sandstone bedrock beneath the footing and any lateral pressure exerted on the existing retaining wall is minimal. Even neglecting soil cohesion, the lateral load from the stairs distributed to the retaining wall would only be on the order of 55 psf over the upper 3.5 feet of the retaining wall and nil below that due to the presence of the sandstone bedrock.

**Planter Box** - Based on the strength and distribution of earth materials beneath the planter box, most of the load from the box is transferred to the sandstone bedrock beneath the footing and any lateral pressure exerted on the existing retaining wall is minimal. Even neglecting soil cohesion, the lateral load from the planter box distributed to the retaining wall would only be on the order of 140 psf over the upper 3.5 feet of the retaining wall and nil below that due to the presence of the sandstone bedrock.

#### CONCLUSIONS

Based on our subsurface exploration, laboratory testing and engineering analysis of loading conditions in the vicinity of the northern side yard of 2655 Broderick Street, it is our opinion that any lateral loads distributed from the deck staircase footing and the

COTTON, SHIRES AND ASSOCIATES, INC.

planter box on the retaining wall are minimal and therefore likely easily supported by the retaining wall (thus explaining the apparent lack of significant distress observed in the retaining wall). However, the design details of this wall are unknown and likely minimal in terms of steel reinforcing (due to the age of the wall) and while the wall apparently performed well during the Loma Prieta earthquake of 1989, the wall has yet to be subjected to significant seismic loading with these additional structures (that were reportedly built after 1990) in place.

### RECOMMENDATIONS

While we are of the opinion that the deck staircase footing and planter box represent minimal lateral loads to the retaining wall, for the reason discussed above (and for conservatism), we recommend that these structures be underpinned into the sandstone bedrock. There is approximately 1.7 feet thickness of artificial fill soil beneath the deck staircase footing and 2.2 to 2.5 feet thickness of artificial fill soil beneath the planter box until sandstone bedrock is encountered. We recommend that reinforced concrete underpins with haunches extending under and dowelled into (minimum 6 inches epoxied embedment) the existing footings be installed at minimum 6 feet edge to edge beneath these structures. Underpins should extend a minimum of 2 feet into the sandstone bedrock. All artificial fill should be removed between the planter box and the top of the retaining wall and underpins should be located at each end of the planter box adjacent to the retaining wall as well as midway along the planter box on the deck side. Underpins and haunches should be steel reinforced concrete with a minimum of 4 number 4 bars vertical in each underpin and horizontal in each haunch (with minimum 3 inches concrete cover over the steel). Concrete should have a minimum 28-day unconfined compressive strength of 3,000 psi. Shop drawings of all underpins and haunches should be provided by the contractor and approved by the engineer prior to construction. All excavations should be inspected by the engineer prior to pouring of concrete.

### LIMITATIONS

Our services consist of professional opinions and conceptual recommendations made in accordance with generally accepted engineering geology and civil and geotechnical engineering principles and practices. No warranty, expressed or implied, or merchantability or fitness, is made or intended in connection with our work, by the proposal for consulting or other services, or by the furnishing of oral or written reports or findings.

COTTON, SHIRES AND ASSOCIATES, INC.

We trust that this provides you with the information that you need at this time.  
If you have any questions, or need additional information, please contact us.

Very truly yours,

COTTON, SHIRES AND ASSOCIATES, INC.



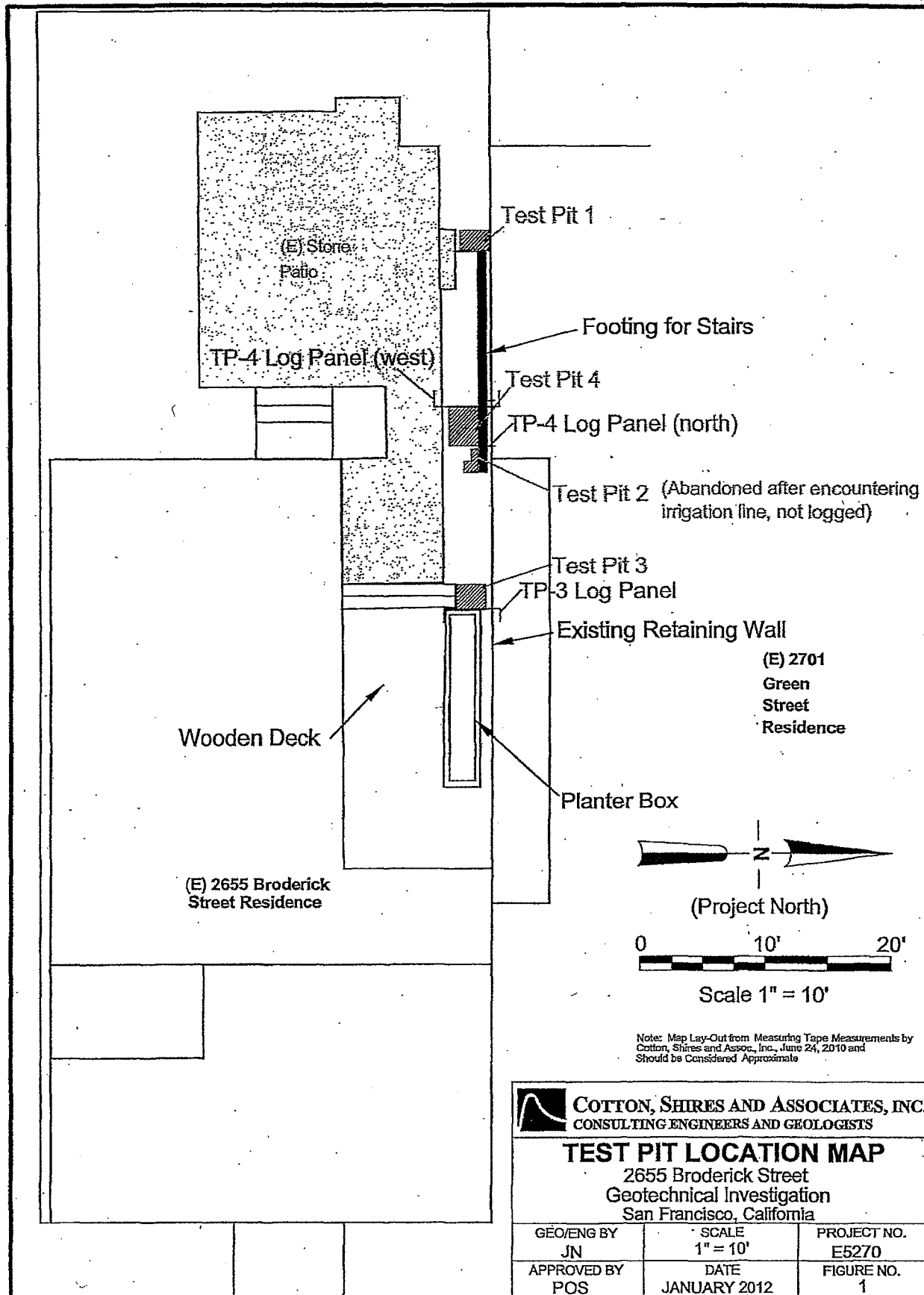
Patrick O. Shires  
Senior Principal Geotechnical Engineer  
GE 770



POS:st

Attachments: Figures 1 through 5 and Appendix A (Laboratory Testing)

COTTON, SHIRES AND ASSOCIATES, INC.




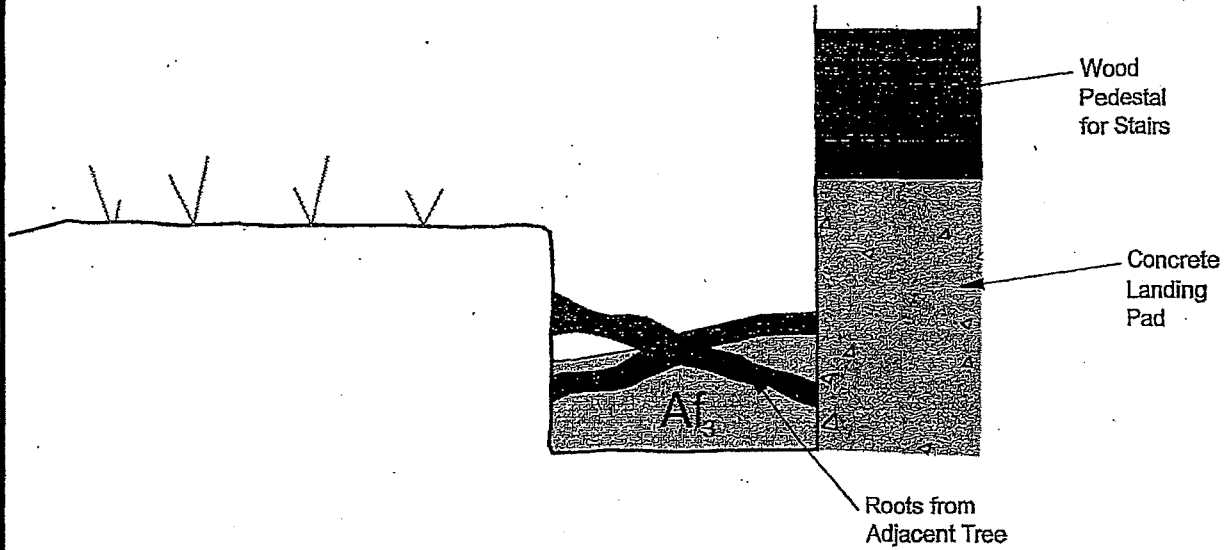
**COTTON, SHIRES AND ASSOCIATES, INC.**  
CONSULTING ENGINEERS AND GEOLOGISTS

**TEST PIT LOCATION MAP**  
2655 Broderick Street  
Geotechnical Investigation  
San Francisco, California

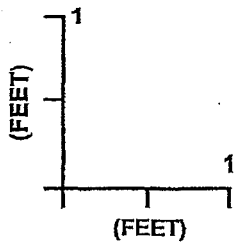
GEO/ENG BY JN	SCALE 1" = 10'	PROJECT NO. E5270
APPROVED BY POS	DATE JANUARY 2012	FIGURE NO. 1


(North Panel)

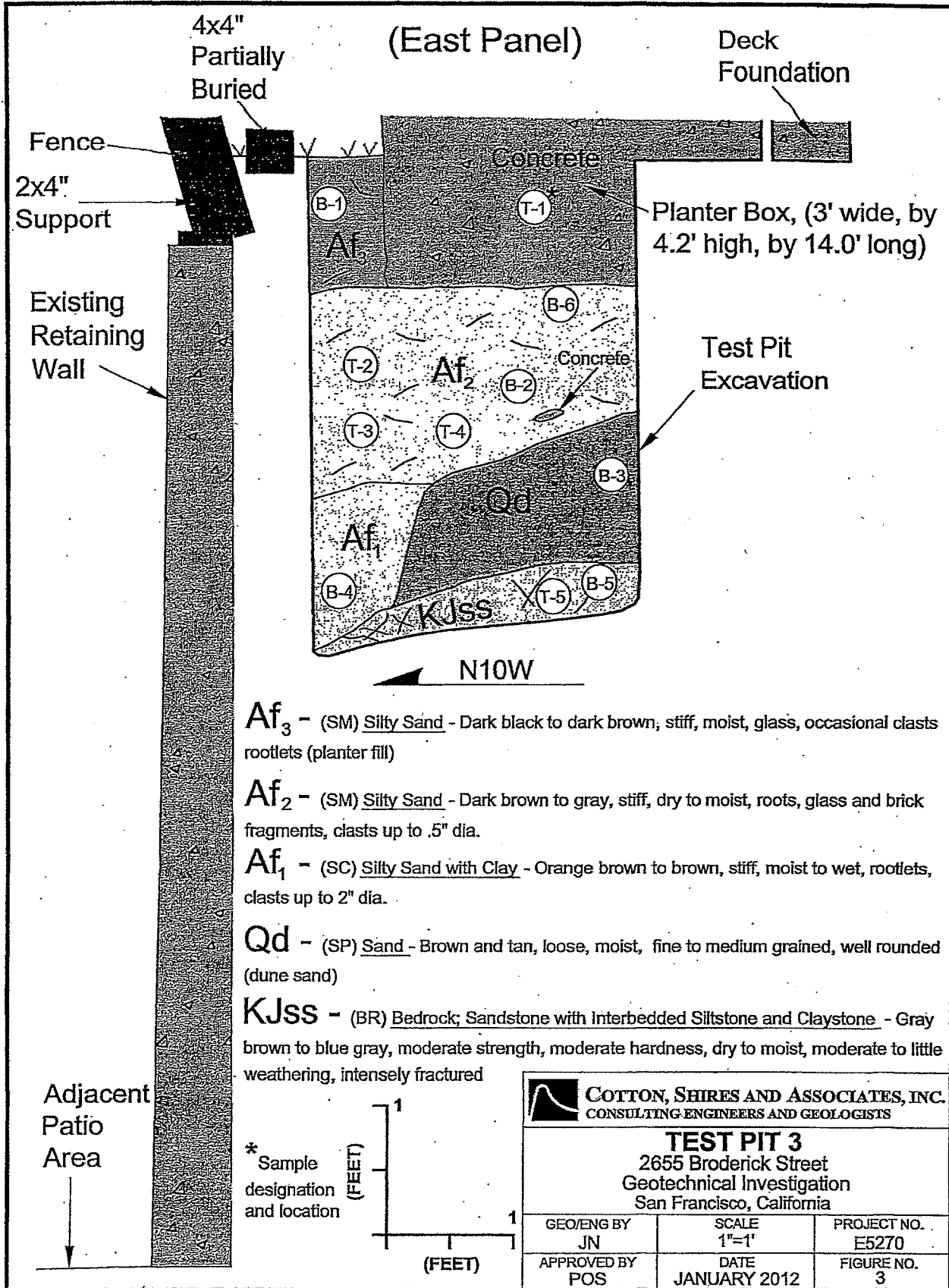
N80E 



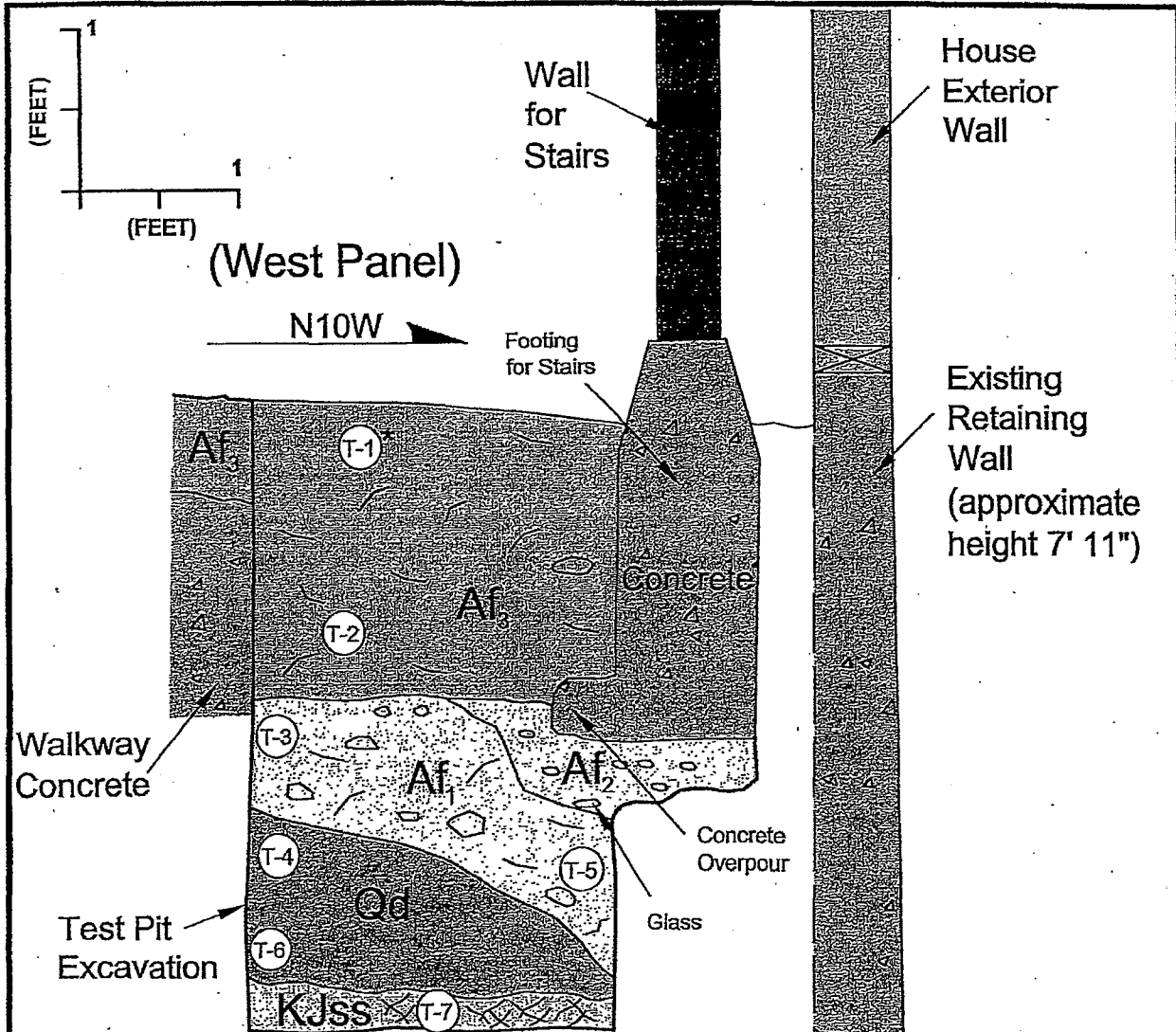
**Af<sub>3</sub>** - (SM) Silty Sand - Dark black to dark brown, stiff, moist, occasional clasts rootlets (planter fill)



 <b>COTTON, SHIRES AND ASSOCIATES, INC.</b> CONSULTING ENGINEERS AND GEOLOGISTS		
<b>TEST PIT 1</b> 2655 Broderick Street Geotechnical Investigation San Francisco, California		
GEO/ENG BY JN	SCALE 1"=1'	PROJECT NO. E5270
APPROVED BY POS	DATE JANUARY 2012	FIGURE NO. 2







**Af<sub>3</sub>** - (SM) Silty Sand - Dark black to dark brown, stiff, moist, occasional clasts rootlets (planter fill)

**Af<sub>2</sub>** - (SM) Silty Sand - Dark brown to gray, stiff, moist to wet, rootlets, glass and brick fragments, clasts up to .5" dia.

**Af<sub>1</sub>** - (SC) Silty Sand with Clay - Orange brown to brown, stiff, moist to wet, rootlets, clasts up to 2" dia.

**Qd** - (SP) Sand - Brown and tan, loose, moist, fine to medium grained, well rounded (dune sand)

**KJss** - (BR) Bedrock; Sandstone with Interbedded Siltstone and Claystone - Gray brown to blue gray, moderate strength, moderate hardness, moist to wet, moderate to little weathering, intensely fractured

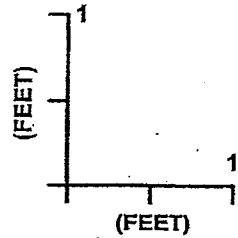
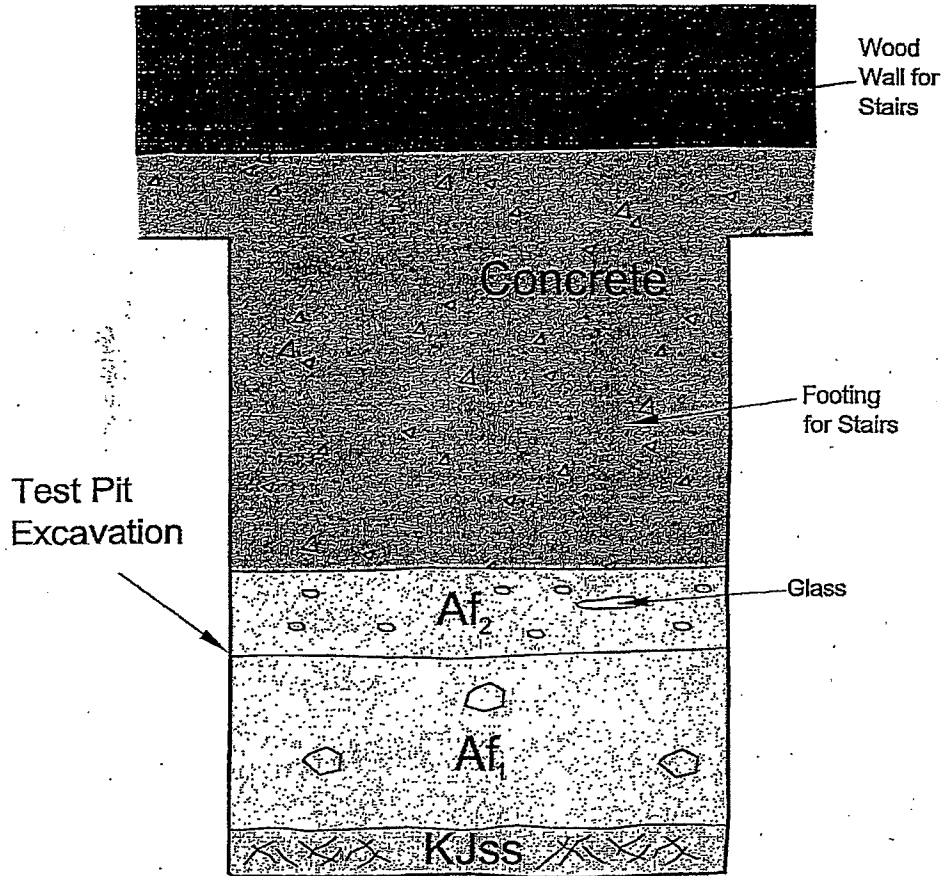
\* Sample designation and location

**COTTON, SHIRES AND ASSOCIATES, INC.**  
CONSULTING ENGINEERS AND GEOLOGISTS

**TEST PIT 4**  
2655 Broderick Street  
Geotechnical Investigation  
San Francisco, California

GEO/ENG BY: JN	SCALE 1"=1'	PROJECT NO. E5270
APPROVED BY POS	DATE JANUARY 2012	FIGURE NO. 4


(North Panel)



**Af<sub>2</sub>** - (SM) Silty Sand - Dark brown to gray, stiff, moist to wet, rootlets, glass and brick fragments, clasts up to .5" dia.

**Af<sub>1</sub>** - (SC) Silty Sand with Clay - Orange brown to brown, stiff, rootlets, clasts up to 2" dia.

**KJSS** - (BR) Bedrock; Sandstone with Interbedded Siltstone and Claystone - Gray brown to blue gray, moderate strength, moderate hardness, moist to wet, moderate to little weathering, intensely fractured

 <b>COTTON, SHIRES AND ASSOCIATES, INC.</b> CONSULTING ENGINEERS AND GEOLOGISTS		
<b>TEST PIT 4</b> 2655 Broderick Street Geotechnical Investigation San Francisco, California		
GEO/ENG BY: JN	SCALE 1"=1'	PROJECT NO. E5270
APPROVED BY POS	DATE JANUARY 2012	FIGURE NO. 5

## APPENDIX A

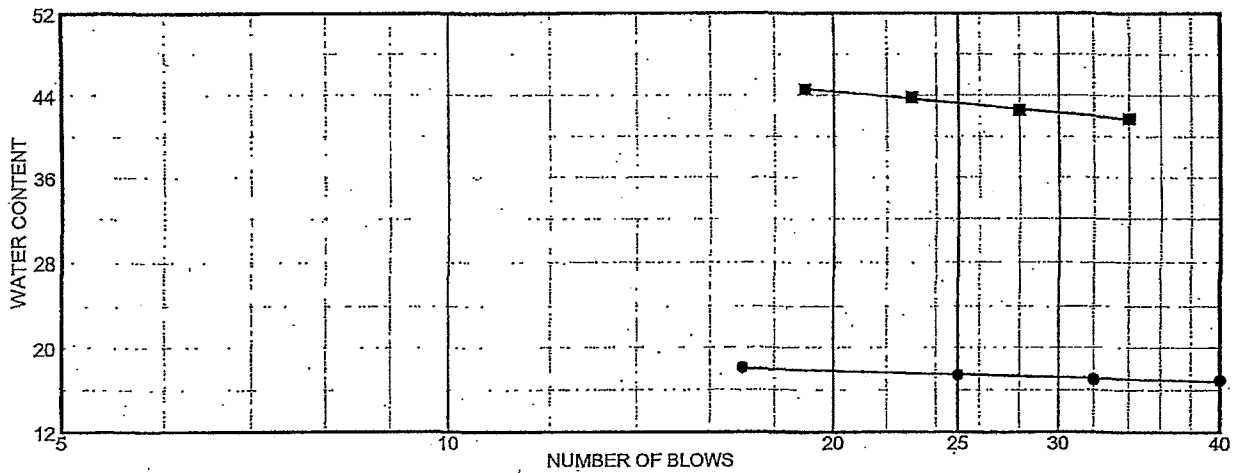
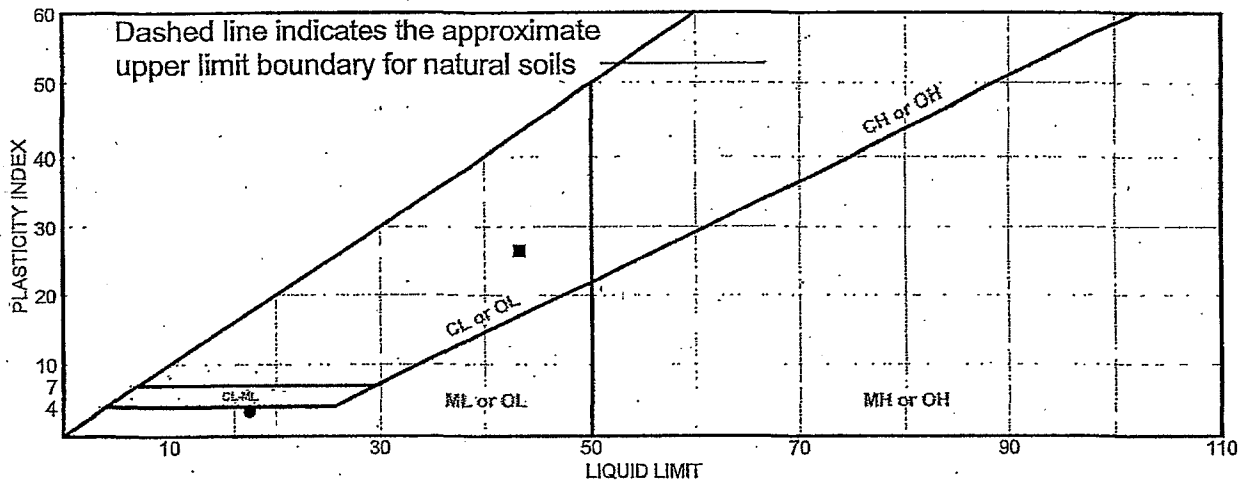
### LABORATORY TESTING

The laboratory testing performed for the 2655 Broderick site consisted of identification and testing of the principal soil types sampled during the field investigation to evaluate index properties and strength parameters of subsurface materials. The soil descriptions and the field and laboratory test results were used to assign parameters to the various materials at the site. The results of the laboratory test program are presented in this appendix (Figures A-1 through A-4).

The following laboratory tests were performed as part of this investigation:

1. Detailed soil/rock description;
2. Moisture content determination;
3. Wet and Dry unit weight determination;
4. Atterberg limits; and
5. Direct shear strength testing.

# LIQUID AND PLASTIC LIMITS TEST REPORT



	MATERIAL DESCRIPTION	LL	PL	PI	%<#40	%<#200	USCS
●	Very Dark Brown Silty SAND	17.5	14.1	3.4			
■	Dark Yellowish Brown Lean Clayey SAND	43.3	16.8	26.5			

Project No. 026-511    Client: Cotton, Shires & Associates  
 Project: Zaretsky - ES270

● Source: TP-3                      Sample No.: B-2                      Elev./Depth: 1.8-2.0'  
 ■ Source: TP-3                      Sample No.: B-4                      Elev./Depth: 3-3.5'

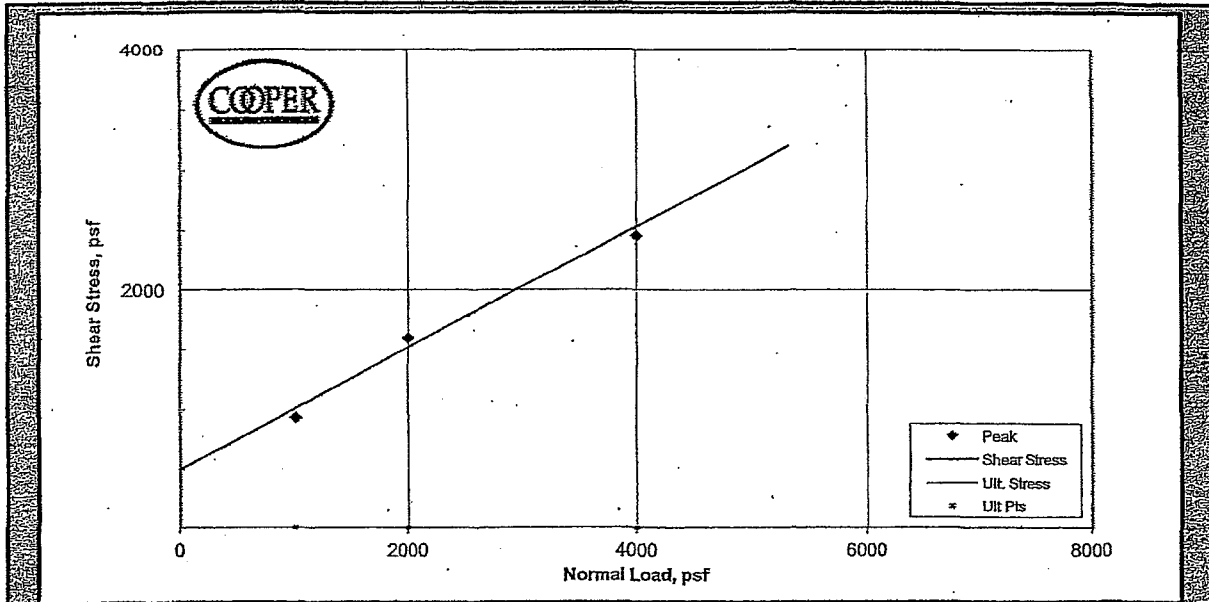
Remarks:  
 ●  
 ■

LIQUID AND PLASTIC LIMITS TEST REPORT  
**COOPER TESTING LABORATORY**

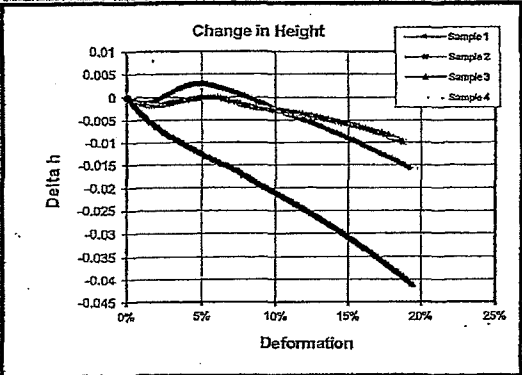
Figure

# Direct Shear

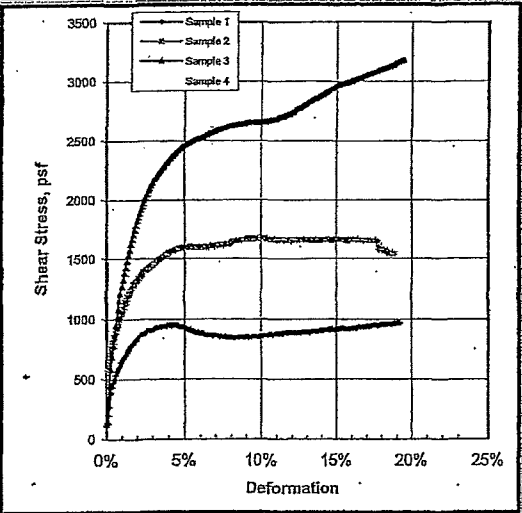
## ASTM D3080



<b>P. Phi (degrees)</b>	27.0	<b>Ult. phi (degrees)</b>	
<b>P. Cohesion (psf)</b>	500	<b>Ult. Cohesion (psf)</b>	



Sample Data - Initial				
Initial	1	2	3	4
Moisture	18.8%	19.4%	16.4%	
Dry Density, pcf	109.2	106.7	108.5	
Void Ratio	0.601	0.638	0.612	
Saturation	87.5%	85.3%	75.1%	
Diameter, in.	2.43	2.43	2.43	
Height, in.	1.01	1.00	1.00	
Sample Data - At Test				
Moisture	19.7%	20.3%	16.6%	
Dry Density, pcf	112.1	111.3	112.2	
Void Ratio	0.561	0.571	0.563	
Saturation	98.3%	99.5%	84.1%	
Diameter, in.	2.43	2.43	2.43	
Height, in.	0.98	0.96	0.97	
Normal Stress, psf	1000	2000	4000	
Peak Stress, psf	976	1681	3167	
Stress Used, psf @ Deformation	931 (5%)	1596 (5%)	2461 (5%)	
Ultimate Stress, psf				
Rate in/min.	0.0005	0.0005	0.0005	

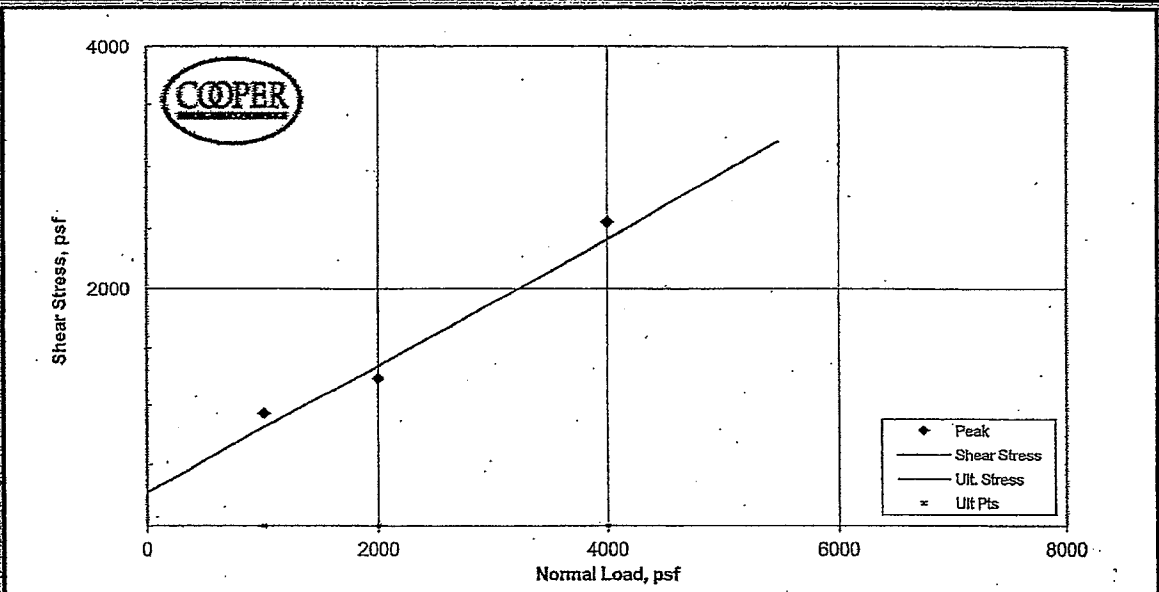


Client #	026-511	Date:	1/23/2012
Client	Cotton, Shires & Associates		
Project Name	Zaretsky		
Project Number	E5270	Reduced by:	MD
Sample #	Boring	Sample	Depth, ft.
1	TP-3	T3	1.6-2.1
2	TP-3	T3	1.6-2.1
3	TP-3	T3	1.6-2.1
4			
Visual Soil Classification			
1	Dark Gray CI SAND/ Si SAND (slightly plastic)		
2	Dark Gray CI SAND/ Si SAND (slightly plastic)		
3	Dark Gray CI SAND/ Si SAND (slightly plastic)		
4			

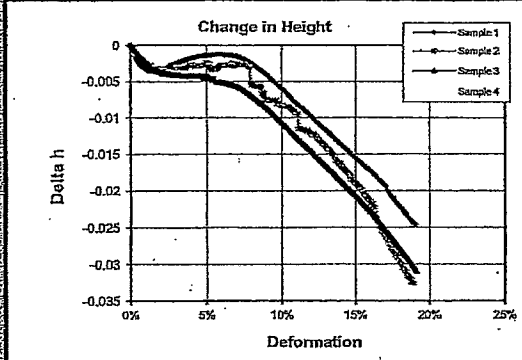
Remarks:

# Direct Shear

## ASTM D3080



<b>P. Phi (degrees)</b>	28.1	<b>Ult. phi (degrees)</b>	
<b>P. Cohesion (psf)</b>	275	<b>Ult. Cohesion (psf)</b>	

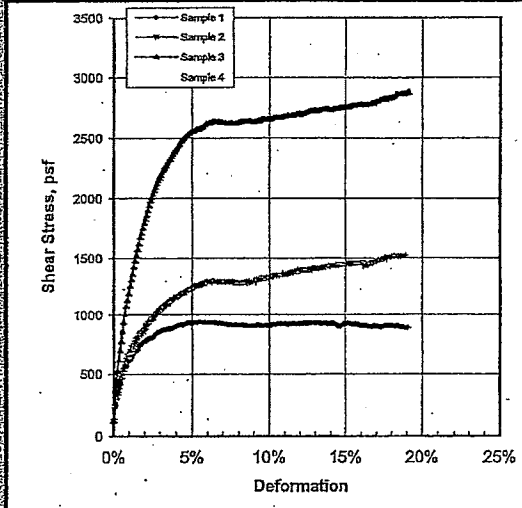


Sample Data Initial				
Initial	1	2	3	4
Moisture	13.7%	12.6%	15.8%	
Dry Density, pcf	101.0	103.0	109.1	
Void Ratio	0.669	0.636	0.545	
Saturation	55.2%	53.3%	78.5%	
Diameter, in.	2.42	2.42	2.42	
Height, in.	1.00	1.00	1.00	

Sample Data At Test				
Moisture	20.0%	19.7%	18.2%	
Dry Density, pcf	102.7	105.6	113.0	
Void Ratio	0.643	0.600	0.494	
Saturation	83.9%	89.5%	100.2%	
Diameter, in.	2.42	2.42	2.42	
Height, in.	0.98	0.98	0.97	

Normal Stress, psf	1000	2000	4000
Peak Stress, psf	938	1518	2882
Stress Used, psf @ Deformation	928	1242	2557
Ultimate Stress, psf			
Rate in/min.	0.0005	0.0005	0.0005

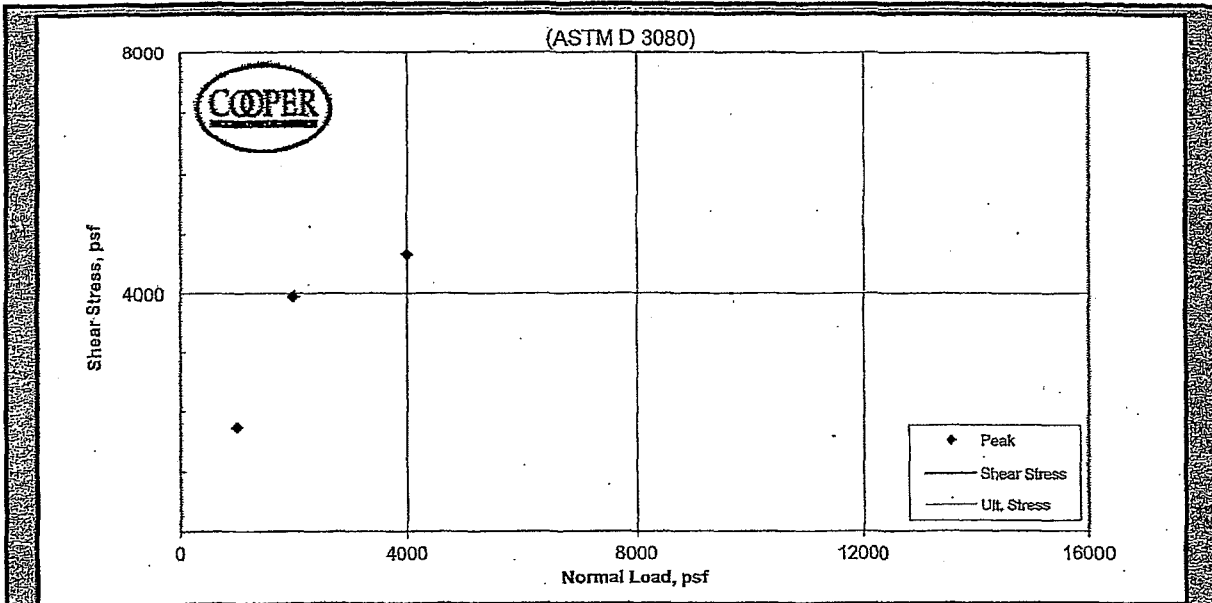
Client	026-511			Date:	1/17/2012
Client	Cotton, Shires & Associates				
Project Name	Zaretsky				
Project Number	E5270		Reduced by:	MD	
Sample #	Boring	Sample	Depth, ft.		
1	TP-4	T-5	2.8-3.4		
2	TP-4	T-5	2.8-3.4		
3	TP-4	T-5	2.8-3.4		
4					



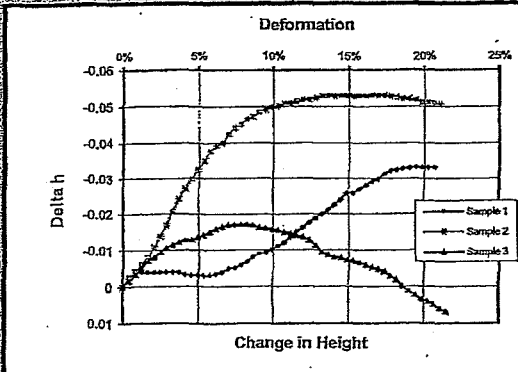
Visual Soil Classification	
1	Olive Brown Silty SAND w/ Clay pockets
2	Olive Brown Silty SAND w/ Clay pockets
3	Olive Brown Silty SAND w/ Clay pockets
4	

Remarks:

# Direct Shear

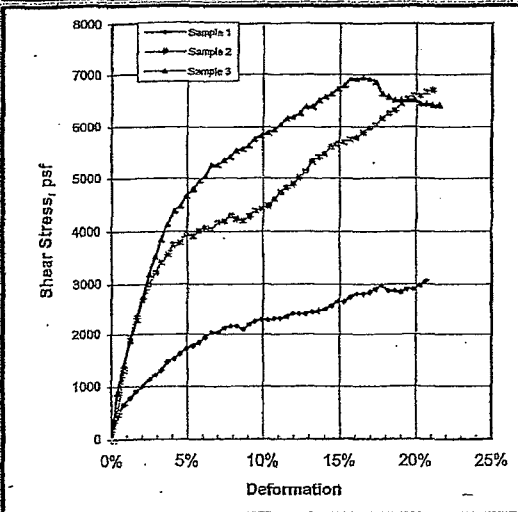


<b>P. Phi (degrees)</b>	<b>Ult. phi (degrees)</b>
P. Cohesion (psf)	Ult. Cohesion (psf)



	Sample Data - Initial			
	Initial	1	2	3
Moisture	8.9%	9.8%	14.2%	4
Dry Density, pcf	114.2	124.3	120.9	
Void Ratio	0.476	0.356	0.394	
Saturation	50.6%	74.6%	97.2%	
Diameter, in.	2.42	2.42	2.42	
Height, in.	1.00	1.01	1.00	

	Sample Data - At Test		
	1	2	3
Moisture	15.2%	11.7%	12.9%
Dry Density, pcf	114.9	127.0	126.6
Void Ratio	0.468	0.332	0.339
Saturation	81.1%	95.4%	102.7%
Diameter, in.	2.42	2.42	2.42
Height, in.	0.99	0.99	0.96



Normal Stress, psf	1000	2000	4000
Peak Stress, psf	3068	6700	6950
Stress Used, psf	1722	3945	4665
@ Deformation	5%	5%	5%
Ultimate Stress, psf	3068	6700	6418
Rate in/min.	0.0020	0.0020	0.0020

CTD #	026-511	Date:	1/26/2012
Client	Cotton, Shires & Associates		
Project Name	Zaretsky		

Project Number	E5270	Reduced by:	MD
Sample #	Boring	Sample	Depth, ft.
1	TP-3/TP-4	T5/T7	3.4-4.2
2	TP-3/TP-4	T5/T7	3.4-4.2
3	TP-3/TP-4	T5/T7	3.4-4.2
4			

Visual Soil Classification	
1	Olive Brown Clayey GRAVEL w/ Sand
2	Olive Brown Clayey GRAVEL w/ Sand
3	Olive Brown Clayey GRAVEL w/ Sand
4	

Remarks: Major patching required on all samples due to Gravel in shear plane.

# Treadwell & Rollo

A LANESAN COMPANY

14 March 2012  
Project 731588101

Robert DeVries, Esq.  
Law Offices of Robert DeVries  
150 Post Street, Suite 600  
San Francisco, California 94108

Re: Report Review  
Retaining Wall  
2701 Green Street/2655 Broderick Street  
San Francisco, California

Dear Mr. DeVries:

In accordance with your request, we reviewed the report prepared by Cotton, Shires and Associates, Inc. (CSA) dated February 3, 2012, for the existing northside improvement at 2655 Broderick Street. You have asked us to review the report and evaluate whether the results of the study adequately address the impact of the improvements on an existing gravity wall that is present along the property that separates 2655 Broderick from the adjacent 2701 Green Street. During the course of our review, we visited the site, discussed the issues with you and the owner of 2701 Green Street and had several conversations with the author of the report, Mr. Patrick Shires, Geotechnical Engineer with CSA.

The wall was built about 100 years ago and is about 7.5 to 8.0 feet high. Starting in the early 2000s, improvements were constructed adjacent to the wall by the owners of 2655 Broderick Street. These improvements include a large rectangular, concrete planter box, a wooden deck, stairs, and a stone patio; trees were planted in the planter box and adjacent to the wall.

During its investigation CSA, excavated several test pits along the wall and found fill over bedrock where explored. The bedrock, of the Franciscan Complex consists of sandstone interbedded with siltstone and claystone. The bedrock is about 3.5 feet below the existing ground surface. It appears that the fill was placed at different times during development of the property; there is no documentation presented in the report that the fill was compacted during placement. Furthermore, at least 12 to 18 inches of the fill may have been placed during patio and planter box construction; according to testimony by Mr. Cox of WJE, Engineers, a portion of the fill is against a new fence along the west end of the property and the fence does not show evidence of dry rot.

In its report, CSA concludes the lateral loads from the deck and the planter box are "minimal." Our review of their calculations dated January 30, 2012, indicate that the pressures computed are vertical pressures — not lateral pressures. The lateral pressures in the fill against the wall would be significantly greater than the values presented in the report.

CSA further concludes that there is a lack of significant distress observed in the wall adjacent to the improvements. Mr. Cox measured a 3/4-inch bowing of the wall toward Green Street and observed vertical cracks that may be caused by bending and deflection of the wall.



Robert De Vries, Esq.  
Law Offices of Robert DeVries  
14 March 2012  
Page 2

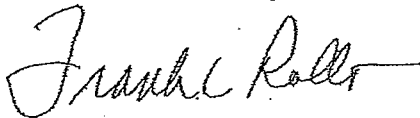
While CSA concludes that the load imposed by the stairs and planter box can be supported by the retaining wall, they recognize that the details of the wall are unknown and that the wall has not experienced earthquake loads. Consequently, they recommended that the stair footing and planter box be underpinned into the sandstone bedrock. We agree. Also, CSA recommended that all the artificial fill placed between the planter box and the top of the retaining walls be removed. We agree.

In our opinion, all the recent fill designated as Af<sub>3</sub> by CSA that lies within the zone defined by an imaginary 1½:1 (horizontal to vertical) line drawn up from the surface of the rock at the wall should be removed. This fill is recent, uncompacted and imposes a load on the wall that was not part of the original design and construction (Circa 1913).

We have observed throughout the City of San Francisco that mature trees adjacent to retaining walls have caused damage to walls. There are numerous examples where the roots impose significant stresses on the walls causing them to lean and crack. Therefore, we recommend that all trees that lie within the same imaginary 1½:1 line drawn up from the intersection of the bedrock and wall be removed. This recommendation should also apply to the trees planted in the concrete box unless it is shown that the box has a well reinforced concrete bottom.

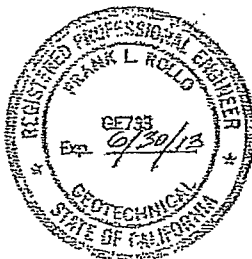
We appreciate the opportunity to review and comment on the CSA report and to assist you with this matter.

Sincerely yours,  
TREADWELL & ROLLO, A LANGAN COMPANY



Frank L. Rollo  
Geotechnical Engineer

731588101.01\_FLR



**Treadwell & Rollo**  
A LANGAN COMPANY

29 August 2012  
Project 731588101

Robert Hendrickson, Esq.  
Duane Morris, LLP  
One Market Plaza, Spear Tower, Suite 2200  
San Francisco, California 94105-1127

Re: Fill Materials  
2701 Green Street/2655 Broderick Street  
San Francisco, California

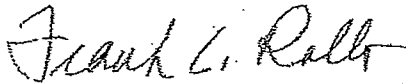
Dear Mr. Hendrickson:

This letter clarifies our understanding of the placement of fill adjacent to the existing gravity retaining wall that separates the properties at 2701 Green Street and 2655 Broderick Street in San Francisco.

In our letter dated 14 March 2012, we stated that at least 12 to 18 inches of fill may have been placed during patio and planter box construction. We used the term "may have been" because we were not present during the fill placement nor during the excavation of test pits by Cotton, Shire Associates, Inc. (CSA). Consequently, we were not able to state conclusively when the fill was placed; however, the information provided in the CSA report indicates the fill, designated as Af<sub>3</sub>, is the most recent of the three fills encountered in the test pits; the Af<sub>3</sub> fill was placed against the recently cast deck foundation, planter box and concrete landing pad and is above the older Af<sub>1</sub> and Af<sub>2</sub> fills. Therefore, it is likely that the fill is recent and was not a part of the original gravity wall construction. Furthermore, the Af<sub>3</sub> fill is shown adjacent to the wall at test pit locations 1 and 3.

As stated in our letter, we believe this fill, designated as Af<sub>3</sub>, imposes a load on the wall that was not part of the original design; it should be removed.

Sincerely yours,  
TREADWELL & ROLLO, A LANGAN COMPANY



Frank L. Rollo  
Geotechnical Engineer

731588101.02\_FLR\_2701 Green Street





Wiss, Janney, Elstner Associates, Inc.  
2000 Powell Street, Suite 1650  
Emeryville, California 94608  
510.428.2907 tel | 510.428.0456 fax  
www.wje.com

Via Email: rchendrickson@duanemorris.com

November 14, 2012

Mr. Robert Hendrickson  
Duane Morris  
One Market Plaza, Suite 2200  
San Francisco, CA 94105-1127

Re: 2701 Green/2655 Broderick Investigation  
WJE No. 2009.4685

Dear Mr. Hendrickson:

This letter provides an update to Wiss Janney Elstner Associates' (WJE) investigation and analysis of the conditions existing at Mr. Irving Zaretsky's property at 2701 Green Street and the adjacent property at 2655 Broderick Street, San Francisco, California. This letter supplements our previous report, dated June 4, 2010.

As you know, the four-story wood-framed apartment structure at 2701 Green was built around 1912, including an unreinforced gravity retaining wall on the uphill side property line adjacent to 2655 Broderick. The original Broderick house reportedly was constructed around 1926, but there have been many remodels and additions over the years, and it is the remodels over the last approximately 10 years that included addition of fill materials and surcharge loads against the property-line retaining wall of 2701 Green that are of concern.

Originally the soil level against the property-line retaining wall was somewhat lower than the top of the wall, as late as 1994 when Mr. Zaretsky bought the property at 2701 Green, but additional fill soils have been added until the soil is now above the top of the retaining wall and is against the base of the 2701 Green wood-framed walls and fences. In addition to the decay and termite damage that having moist soil in contact with wood has inflicted and possibly other damage that may be revealed during repairs, the additional soil fill has increased the lateral load on the retaining wall. Moreover, the owners of 2655 Broderick built both a deck with stairway and a large concrete planter that contains numerous large trees along the property line. The weights of both additions add surcharge loads to the retaining wall. Also, rootballs of the large trees and shrubs in the planter and elsewhere along the property line are adding further unanticipated pressures against the retaining wall.

The deflection of the top of the cantilevered portion of the retaining wall has been measured to be approximately 1.25 inches. We also observed two more-or-less vertical cracks in the wall, one at the center of the span, and one at the third-point of the span. The deflection and (at least) the centerline crack are likely due to the active earth pressure of the soil and planter surcharges adjacent to this wall.

Headquarters & Laboratories—Northbrook, Illinois  
Atlanta | Austin | Boston | Chicago | Cleveland | Dallas | Denver | Detroit | Honolulu | Houston  
Los Angeles | Minneapolis | New Haven | New York | Princeton | San Francisco | Seattle | Washington, DC

## UPDATE

The neighbors' geotechnical engineer, Patrick Shires of Cotton, Shires, and Associates (CSA), conducted an investigation on the 2655 Broderick property that involved digging four test pits to evaluate the soil profiles near the property line, laboratory testing of several soil samples, and performing engineering analysis. The subsequent CSA report, dated February 3, 2012, provides us with some additional information that we can use to better estimate the loads on the retaining wall of 2701 Green. In addition, WJE has taken measurements of the retaining wall that also help with the process of estimating loads.

The CSA test pits generally indicate that the uphill site is underlain with sandstone/siltstone/ claystone bedrock 3.5 to 3.6 feet below the top of the retaining wall. The test pits revealed varying amounts of ancient dune sand immediately above the bedrock and varying amounts of three different fills identified in each of the pits, with a cumulative fill height adjacent to the wall of about 3.5 feet.

At the lightwell of 2701 Green, the retaining wall cantilevers above the slab approximately 7 feet, 9 inches. It is 7-inches thick at the top and the front face is battered slightly so that—assuming the hidden face is vertical—the wall is about 14-inches thick at the lightwell slab; WJE has not confirmed the geometry of wall along the uphill side. In addition, we do not know the depth or shape of the footing below the top surface of the lightwell slab, but can reasonably assume that it extends 1 foot below the lightwell slab's upper surface for a total height of 8 feet, 9 inches.

Test pit 3, by CSA, was dug adjacent to the neighbor's planter and near the lightwell retaining wall. CSA found exposed bedrock at approximately 3 feet, 6 inches, below the top of the wall. However, the test pit was dug some distance away from the back of the retaining wall, and thus did not reveal if the retaining wall was cast directly against the bedrock cut below that level. If the wall was over-excavated, the backfill soil exerts lateral pressure over the full height of the wall. Since we do not know the interaction between the wall and bedrock—and in order to be reasonably conservative—our calculations are based on the assumption that the soil and bedrock behind the wall was over-excavated to its full height and backfilled.

It is reasonable to assume that the lowest layer of fill (designated Af1 by CSA) was placed soon after the wall was constructed, and represents the original condition of the wall. However, while there is no way to date fill Af2, there have been repeated additions of soil over the years. Af2 may have been placed more than 10 years ago, or less; but either way, it represents a significant surcharge against the retaining wall beyond the original design intent. Both the stairway foundation next to the 2701 Green building and the planter foundation next to the cantilevered retaining lightwell wall are founded on Af2 soil. Af3 is the most recent fill, clearly less than 10 years old, and was placed next to the planter and also the stairway footing. According to the CSA report, the depth of fills Af2 and Af3 total about 2 feet.

The CSA report estimated the surcharge created by the 3-foot wide concrete planter, soil and trees near the retaining wall weighs about 550 psf along its 14-foot length, or about 1,650 pounds per lineal foot and 23,000 pounds total. This is close to WJE's earlier estimate of about 20,000 pounds total. WJE assumed two initial, pre-remodel cases for our calculations: an original soil height one foot below the top of the

wall, and an original soil height two feet below the top of the wall. From our investigation and the CSA report, the original soil height against the wall likely fell at or between those two extremes.

### CALCULATIONS

The planter and its trees appear to add the most severe loading to the retaining wall, so WJE concentrated on determining the additional forces and moments on the retaining wall for that condition. Our calculations indicate significant lateral load increases due to additional soil fill and planter surcharge, summarized in the table, below. The table also lists major increases in the overturning moments at the base of the retaining wall. While the loads and moments are relatively straightforward calculations, we are unable to calculate the additional stresses on various portions of the walls due to a lack of knowledge about the geometry of the wall, concrete strength, etc.

Fill Height	Active earth pressure, $P_A$ , increase, including planter surcharge	Overturning moment, $M_A$ , increase, including planter surcharge
1'	120%	310%
2'	210%	560%

Clearly, the cumulative effects of raising the grade over the years has greatly increased the horizontal loads and overturning forces on the wall above the original intent of the designer. In addition, these increased loads will reduce the ability of the retaining wall to withstand seismic forces.

WJE did not calculate the added loads and moments due to the stairway and its foundation at 2655 Broderick, but they, too, will be significant.

### RECOMMENDATIONS

The increases in the lateral loading and overturning moments in conjunction with the observed cracking of the retaining wall, argue for reducing the stresses against this very old, unreinforced wall. This problem, along with the issues of proper runoff drainage, and decay of the walls of 2701 Green that have been previously discussed should be resolved by a single, comprehensive engineered design.

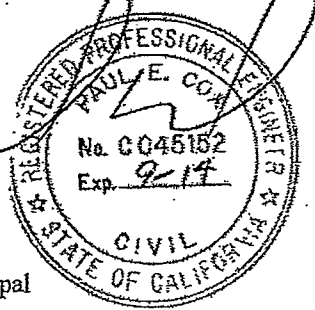

WJE recommends the following actions by the owner of 2655 Broderick:

- Remove the planter and its trees.
- Remove all other trees along the property line.
- If the planter is to be rebuilt near that location, it should be located away from the wall, or founded on deep foundations that prevent it surcharging the property-line retaining wall.
- Any trees to be installed along the property line are to be installed in planters with impenetrable sides and bottoms that prevent the roots from applying lateral pressure to the walls.
- Remove the deck and stairway and its foundation. If it is to be rebuilt in the same location, it should be founded on deep foundations that prevent it from loading the retaining wall.
- While the deck and stairway are removed, provide access for the owner of 2701 Green to repair the wood framing of the property line walls.

- Regrade the soil along the property line to a level that will reduce the stresses on the retaining wall to acceptable levels based on sound engineering analysis and graded at a maximum 1:1-1/2 uphill slope.
- Once the height of the soil along the property line has been reduced, install runoff controls to prevent uphill water from accumulating against the retaining wall, or draining onto the 2701 Green property.
- As an alternate to some of the above items, the owner of 2655 Broderick can construct a retaining wall on the uphill side of the property line that will support or retain soils, planters, plant roots, and structures without loading the 2701 Green retaining wall. A minimum of six inches of separation between soil and wood will have to be maintained, and provisions made for proper rainwater drainage.

Sincerely,

WISS, JANNEY, ELSTNER ASSOCIATES, INC.



Paul Cox, C.E.  
Associate Principal

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6015

IRVING ZARETSKY  
PO BOX 2944  
SAN FRANCISCO, CA 94129

WELLS FARGO BANK N.A.  
SAN FRANCISCO, CA  
917 191271

PAY TO THE  
ORDER OF

*SF Planning Dept*

\$ *547.00*

*Five hundred forty seven dollars & 00/100* DOLLARS

PROTECTED AGAINST FLOODING



*Irving Zaretsky*

*[Signature]*

Wells Fargo Bank, N.A. San Francisco, CA 94102-1271

# **ZONE** Consulting

February 12, 2015

President London Breed  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlet Place  
City Hall, Room 244  
San Francisco, CA 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2015 FEB 12 AM 10:40

JHB

**REGARDING:** Appeal of Categorical Exemption  
**ADDRESS:** 2655 Broderick St  
**SUBJECT:** Project Sponsor Opposition to Appeal  
**FOR HEARING:** February 24, 2015

Dear President Breed and Members of the Board,

On behalf of property owners Mark and Carrie Casey ("Project Sponsor"), we offer this information and these responses to the Appeal of Categorical Exemption for work at the subject property.

## **PROJECT BACKGROUND**

The subject property is a 30-foot wide by 100-foot deep lot on the west side of Broderick Street, between Vallejo and Green Streets. The site is developed with a three-story (including garage) single-family home purchased by the Project Sponsor in October of 2007.





The Categorical Exemption under appeal was issued pursuant to two building permit applications filed by Project Sponsor. The permit applications would legalize minor structures constructed by previous owners, and would clear Notices of Violation engendered by DBI complaints the Appellant filed.

Building permit application 2013 09 12 6711 (hereinafter "Permit 1") was filed to legalize part of a deck one story above rear grade, and an uncovered single-story stair from that deck to grade. This work was originally approved by the City in July of 1985, via permit number 8504468, filed by then-owner Mary Yolles. The work was constructed, but did not receive required inspections. The permit expired on 4/14/1986, which rendered the work illegal. This occurred more than 21 years prior to the purchase of the property by the Casey family. The status of the stair as an illegal but otherwise Code-complying structure was never disclosed to or discovered by Project Sponsor until the Appellant began his six-year campaign against them.

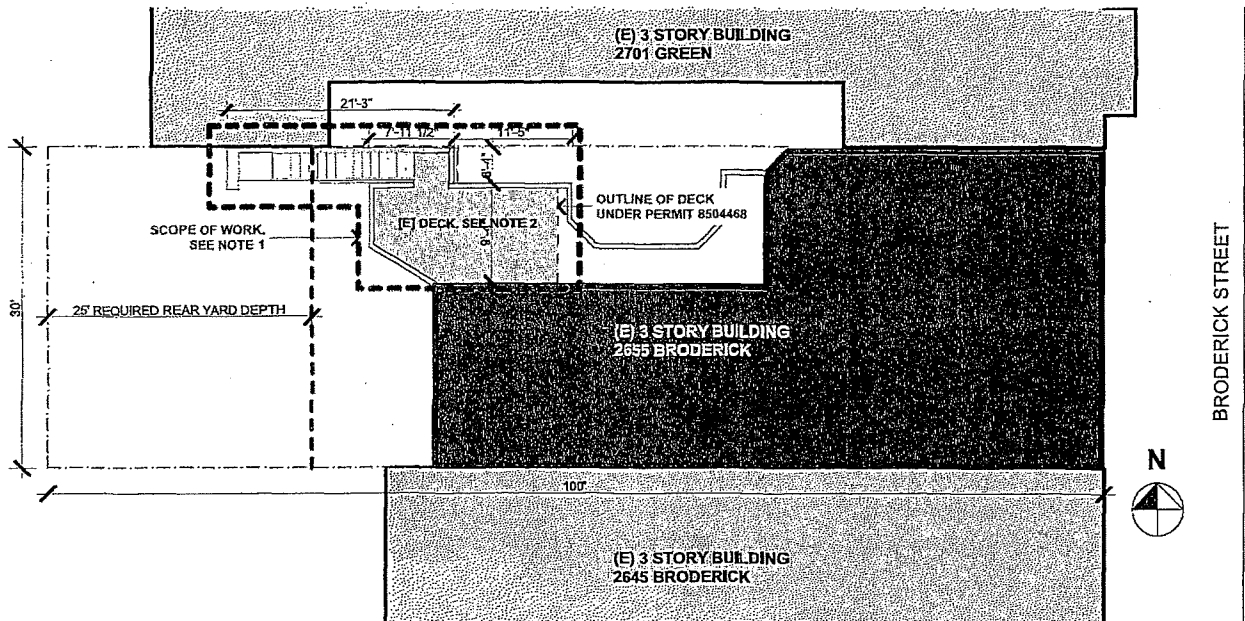


Figure 1: Site Plan showing scope of work under "Permit 1" (from DNM Architect)

Likewise, building permit application 2013 0912 6709 (hereinafter "Permit 2") was filed to legalize a stair penthouse and 425 square-foot roof deck, constructed without an approved permit.

In 1985, then-owner Mary Yolles filed permit applications that included addition of a roof deck and stair penthouse. Those elements were removed from the scope of the permits in notes handwritten by the applicant on the approved plans.

Ms Yolles sold the property in 1988 to Peter and Nancy Lowe, who filed permit application 9009756 with plans drawn by Butler Armsden Architects and dated 5-17-90, with a scope of work to remodel and add to the residence. Those plans show an "existing" roof deck and an "existing" rectangular stair penthouse in their current extant configurations. Part of the scope of work of those plans included re-construction of the stair penthouse and the addition of high

clerestory windows to the existing story below. This work was removed from the permit by notes added to the drawings after submittal, and changes to later revision sets.

Therefore we believe the roof deck (with hot tub) and penthouse were illegally constructed, apparently in accord with unapproved but professionally designed architectural and engineering plans, some time from 1985 to 1990. Again, this is between 17 and 22 years before the Casey family purchased the property in October 2007.

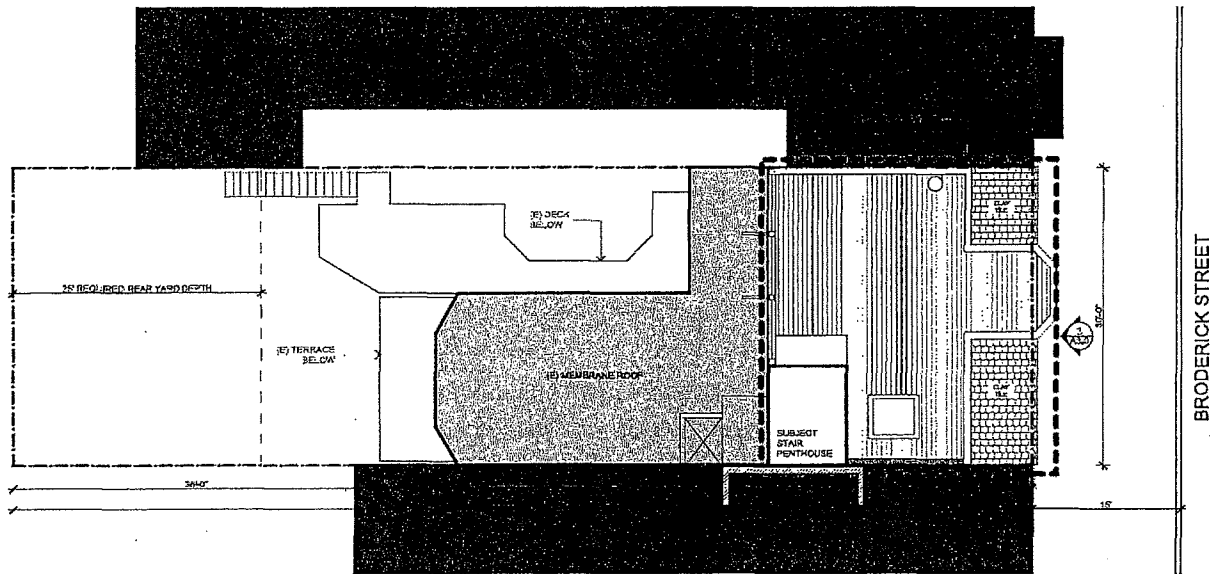


Figure 2: Roof Plan showing scope of work under "Permit 2" (from DNM Architect)

The Caseys filed permit 2008 02 12 4651 on 2/12/2008 to replace their failing roof membrane. They and their contractor, unaware that the deck and penthouse were not legally constructed, removed the hot tub, deck, and guard wall finishes to enable reroofing of the residence. Then the deck and walls were replaced, but the hot tub was not reinstated. The project was given a completed final inspection by DBI on 4/7/2008. Here is DBI's record of the permit, its approval, and its final inspection:

**Permit Details Report**

Application Number: 200802124651  
 Form Number: 8  
 Address(es): 0955 /002 /0 2655 BRODERICK ST  
 Description: REROOFING.  
 Cost: \$13,800.00  
 Occupancy Code: R-3  
 Building Use: 27 - 1 FAMILY DWELLING

**Disposition / Stage:**

Action Date	Stage	Comments
2/12/2008	TRIAGE	
2/12/2008	FILING	
2/12/2008	FILED	
2/12/2008	APPROVED	
2/12/2008	ISSUED	
4/7/2008	COMPLETE	Final Inspection/Approved

Activity Date	Inspector	Inspection Description	Inspection Status
4/7/2008	Michael Quinlan	FINAL INSPECT/APPRVD	FINAL INSPECT/APPRVD

Sometime in early 2008 the Appellant approached the Caseys with objections to the presence of the stair adjacent to his property, stating that City codes did not permit that. When told that the structure was allowed by Code, the Requester said he would have the Code changed so that it wouldn't be allowed, and that his legal pursuits would cost the Casey's \$75,000 or more. Because the Caseys chose to legalize a stair in a location that had been approved by permit, but had not received its final inspection under previous ownership, on a property they recently purchased in good faith, Appellant began a six-year campaign of bureaucratic complaints, a civil suit, and a relentless broadcast of distortions, misconceptions, and misstatements sent to the Mayor, the District Supervisor, the City Attorney, various DBI and Planning Department directors, managers and staff, the Zoning Administrator, City Commissioners, Appellant's colleagues in The Cow Hollow Association, and others.

Appellant's unrelenting use of every means possible to impede approval of any application that would legalize the stairs, roof deck, or any other permit filed by the Project Sponsor has taken its toll of time, City resources and funding on all sides. He appealed the issuance of a planter permit (one not subject to Planning Department review) to the Board of Appeals, where that permit was upheld unanimously. He filed requests for Discretionary Review on Permits "1" and "2" described above. The Planning Commission, on December 18, unanimously approved both of those permits as submitted. In none of these cases did he ask for appropriate resolution, or provide proof of his assertions of damage from the projects. Now we are focused on a frivolous appeal of a routine Categorical Exemption.

#### **NO BASIS FOR CAT EX APPEAL**

CEQA was enacted as state law to analyze projects for significant effects on the environment. Some projects are so minor in scope, so commonplace in occurrence, and so well-governed by the Building and Planning Codes, that CEQA recognizes they could have no effect on the environment. The projects are by law exempt from CEQA review. That is the case here, in a city where there are tens of thousands wood-frame stairs adjacent to neighboring properties, and where there are thousands of roof decks.

No where in his appeal of the Cat Ex does Appellant cite any point of law to support overturning the Planning Department's determination. Instead, he once again recycles the litany of complaints and demands that we have seen in his previous permit appeals and DR requests.

Because he will employ any means possible to delay resolution of these projects without valid reasons for his objections, including fabricating or exaggerating impacts to his property, and misconstruing code requirements, Appellant seems unable to present his concerns in the proper venue. For instance, in his DR Requests, Appellant raised multiple issues which fell into one or more of these categories:

- A. Invalid Planning Issues: wherein the Planning Code and Residential Design Guidelines allow structures Appellant believes shouldn't be allowed;
- B. DBI Issues: wherein Appellant asked the Planning Commission to take action on Building Code requirements or processes under the purview of the Department of Building Inspection; and,

C. Civil Issues: wherein Appellant asked the Planning Commission and DBI to impose revisions or conditions on matters that are subject to private agreements between land owners. It is in this category that Appellant has valid concerns. However, DR requests, appeals, and importuning City commissions to intercede in private agreements is not the way to resolve them.

At the Planning Commission DR hearings, we stated our willingness to try to reach agreements with Appellant on the following matters:

1. Flashing between Appellant's south roof curb and the subject roof deck guardwall.
2. Flashing between Appellant's south property line wall and the subject stair guardwall/railing.
3. Removal of the existing stair finishes and structure sufficient to provide access for Appellant's contractor, consultants, and inspectors to maintain or repair his south property line wall at 2701 Green, predicated on execution of a mutually acceptable written access agreement.
4. Removal of some "Type 3" fill as identified in our geotechnical report, to lower grade on the subject property a few inches in select areas.<sup>1</sup>

Note: none of these is a CEQA issue. Appellant has, as of this writing, provided no arguments supporting his contention that the Planning Department erred in issuing the Cat Ex determination.

### **APPELLANT WON'T WORK TOWARD A RESOLUTION**

At the DR hearing on December 18, we expressed openness to attempt, again, to reach agreement with Appellant on the issues listed above. Appellant's engineer Rodrigo Santos, during rebuttal, stated he was "delighted to hear of our willingness" to do so.

Following the DR hearing (at which the Planning Commission unanimously upheld both Permits 1 & 2) Appellant, instead of meeting to reach a resolution on design details for shared flashing, or working out the terms of an access agreement, proceeded to file this meritless Cat Ex appeal. This is not the behavior of someone who wants to solve neighbor-to-neighbor problems.

Appellant is becoming well-known to the City's permitting agencies and land use commissions for his obstructionist tactics, not only at this property but at others as well. He frequently makes last minute requests for rescheduling and continuances; he broadcasts misstatements and exaggerations that are unsupported by any evidence; he spreads misinformation among neighbors in attempts to garner allies in his opposition; he fails to provide timely analyses for

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<sup>1</sup> Please see Exhibit A for a narrative regarding Appellant's assertions regarding fill imported to Project Sponsor's rear yard and the alleged effects of this exaggerated claim of a "surcharge" on his retaining wall. Even if Appellant's contentions were true, minor changes in soil levels (less than 8 feet) and alleged errant run-off from the project site do not trigger CEQA review, but are adequately addressed by the Building Code and are under the jurisdiction of DBI.

his misplaced appeals, and instead "document dumps" irrelevant histories and lengthy narratives that are not germane to the issues at hand; he overwhelms City staff with multiple daily emails; he wants City agencies to impose conditions that are not within their purview; he misunderstands his own appeals and the scopes of power of the appellant bodies, and he is unremittingly aggressive, irrational, hostile and unreasonable in his demands and actions.

It is difficult to reach a resolution with a party whose priority seems to be creating as much delay, hardship, and discord as possible.

### **SUMMARY**

The project applications associated with the subject Cat Ex are entirely Code-complying, appropriate for the property and the neighborhood, and without exceptional or extraordinary circumstances. They are commonplace, mundane minor structures that are present on residential properties all over the City. The reasons offered by the Requester for opposing the Cat Ex are either fallacious Planning Code issues, or matters that are under the review and purview of DBI, or civil issues subject to private agreements between owners, not CEQA issues. Appellant has failed to meet his burden of proof that the Planning Department erred in issuing this Cat Ex.

Appellant is abusing the CEQA appeal process in a misguided attempt to undo the permit approval decisions of the Planning Commission. There are no environmental review issues with Project Sponsors' permits, either in fact or law. The Planning issues have been adjudicated at the Commission. (There were none.) Any alleged Building Code issues regarding soil surcharges and site drainage should be (and probably will be) properly heard at the Board of Appeals.

We respectfully request that the Board vote to uphold the Determination of Categorical Exemption from Environmental Review as issued by the Planning Department, on the basis that the project meets all requirements for a Class 1 exemption in accord with CEQA Guidelines and Chapter 31 of the Administrative Code.

Yours truly,

  
Craig Nikitas

Exhibit A

*Information and Response Regarding  
Soil Levels at Rear Yard of  
2655 Broderick St.*

The centerpiece of Appellant's opposition to Project Sponsor's permits has become his *idée fixe*: that somehow, the grade of Project Sponsor's rear yard has been raised recently by two feet. In November of 2011, Appellant filed a complaint with DBI about this very issue.

**COMPLAINT DATA SHEET**

Complaint Number: 201173477  
 Owner/Agent: OWNER DATA SUPPRESSED  
 Owner's Phone: -  
 Contact Name: -  
 Contact Phone: -  
 Complainant: COMPLAINANT DATA SUPPRESSED  
 Date Filed: 11/29/2011  
 Location: 2655 BRODERICK ST  
 Block: 0955  
 Lot: 002  
 Site:  
 Rating:  
 Occupancy Code:  
 Received By: Christina Wang  
 Division: BID  
 Complainant's Phone:  
 Complaint Source: TELEPHONE  
 Assigned to Division: BID  
 Description: Grade was raised in rear yard w/out required grading permit. This raise grade purchase (E) neighbor retaining wall

Instructions:

**INSPECTOR INFORMATION**

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
BID	DUFFY	1100		

**REFERRAL INFORMATION**

**COMPLAINT STATUS AND COMMENTS**

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
11/29/11	CASE OPENED	BID	Duffy	CASE RECEIVED	
12/07/11	OTHER BLDG/HOUSING VIOLATION	CES	Duffy	CASE CONTINUED	Send letter to owner.
12/09/11	OTHER BLDG/HOUSING VIOLATION	PID	Duffy	OFFICE/COUNTER VISIT	Mailed "Inspection Request"
12/16/11	OTHER BLDG/HOUSING VIOLATION	PID	Duffy	CASE UPDATE	Mailed "Inspection Request"
06/28/12	OTHER BLDG/HOUSING VIOLATION	INS	Duffy	FIRST NOW SENT	Issued 1st NOW by Inspector D. Duffy
07/02/12	OTHER BLDG/HOUSING VIOLATION	INS	Duffy	CASE UPDATE	Mailed copy of 1st NOW - met
07/11/12	OTHER BLDG/HOUSING VIOLATION	BID	Duffy	CASE ABATED	No evidence that grade was raised. In excess of that exempted under section J103.12. No evidence presented to indicate when grade was raised or by how much. Photos (included) are inconclusive invoice (included) indicates 2 8 yd dirt boxes of material removed.

Figure A.1: Abated complaint regarding raised grade

Code Enforcement Inspector Donal Duffy abated that complaint over two years ago. Project Sponsor did remove some soil from the rear yard, to correct grading and drainage issues that could cause some water flow off their property. This corrected any Code issues to the City's satisfaction, if not Appellant's. The month after his first complaint about soil level was cleared,

he filed a second, identical complaint. This complaint was found to be without merit, and was abated in December of 2012.

**COMPLAINT DATA SHEET**

Complaint Number: 201261763  
 Owner/Agent: OWNER DATA SUPPRESSED  
 Owner's Phone: --  
 Contact Name: --  
 Contact Phone: --  
 Complainant: COMPLAINANT DATA SUPPRESSED  
 Date Filed: 08/31/2012  
 Location: 2655 BRODERICK ST  
 Block: 0955  
 Lot: 002  
 Site:  
 Rating:  
 Occupancy Code:  
 Received By: Ying Pei  
 Division: BID  
 Complainant's Phone:  
 Complaint Source: TELEPHONE  
 Assigned to Division: BID  
 Description: Soil level raised at northern elevation of rear and side yards without grading permit surcharging neighbor retaining wall at 2701 Green Street. At southern elevation soil has been lowered affecting sub-lateral support for retaining wall at 2645 Broderck.

Instructions:

**INSPECTOR INFORMATION**

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
BID	DUFFY	1100		

**REFERRAL INFORMATION**

**COMPLAINT STATUS AND COMMENTS**

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
08/31/12	CASE OPENED	BID	Rafael Jr.	CASE RECEIVED	
12/19/12	OTHER BLDG/HOUSING VIOLATION	CES	Duffy	CASE ABATED	Same complaint as C#201173477 abated 7/11/12

Figure A.2: Second complaint regarding raised grade

In response to these and a suite of other complaints, the Caseys had a geotechnical report prepared by Mr. Patrick Shires, a principal engineer of Cotton, Shires And Associates, Inc. regarding the soil at the Casey property. Mr. Zaretsky (presumably it was he; complainant information is suppressed on-line) filed a third complaint about the soil level at 2655 Broderick (see Fig. 5), and his consultant Paul Cox twisted the findings in Mr. Shire's report as follows, in reference to the rear stairs in a letter Cox wrote to Planner Mary Woods dated September 9, 2014:

*"Specifically, the vertical dimension showing that the existing stair at 3-feet above the ground level meets the 25-foot setback is incorrect in at least two ways. First, it is measured from the top of the existing unpermitted patio tile and not the top of the soil. Second, the soil level itself is backfill that is part of the illegal surcharge on the neighboring retaining wall that must be significantly reduced ...."*

*"For background on the surcharge issues, I refer you to Cotton, Shires and Associates' report to Mr. Casey's then attorney James Biernat, dated February 3, 2012, and to WJE's report to Mr. Zaretsky's then attorney Robert Hendrickson, dated November 14, 2012. If you do not have copies of these reports, please let me know and I will forward them to you."*



Here is engineer Shire's response to this distortion:

"Regarding Mr. Zaretsky's claim that Mr. Casey's predecessor added 2 feet of soil behind the retaining wall and his use of our report as justification for that claim:

"Nowhere in our referenced geotechnical report did we state or imply that the original backfill of the old retaining wall was augmented within the past several decades by adding Type 2 fill. In the early 1900's as it is today, it was/is common practice when constructing cut/fill lots such as those along Broderick Street to use both the native materials removed as fill as well as importing fill from offsite. They would cut on the upslope side of the lot and fill on the downslope side of the lot, building retaining walls at the property lines to add more level area for yards, etc. Because the builder of Mr. Zaretsky's lot wanted a parking garage beneath the structure and because his lot fronts on Green Street, they had to cut an additional depth to create a level lot and had to build a higher retaining wall to support that deeper cut. It was not the practice in the early 1900s, nor is it now, to build retaining walls at the boundaries of cut/fill lots that have 2 feet of freeboard (2 feet of unused retaining wall sticking up in the air). The different types of fill logged in our test pits behind the retaining wall simply represent Type 1 - the re-use of native materials, Type 2 - the import of offsite materials for the original lot construction as described above, and Type 3, more recent infill from detritus and landscaping activities. We are recommending that more recent Type 3 materials be removed in the area of the new planter box, but not the Type 1 and Type 2 materials from original construction. Those Type 1 and Type 2 materials have been behind Zaretsky's wall since it was built and removing them would create a sinkhole to trap water behind the wall, adding hydrostatic pressure to it unless the water is somehow caught and pumped away. We recommend leaving the wall backfill conditions as they were intended to be when the wall was constructed." [Emphasis added.]

For engineer Cox willfully to attribute to another design professional the misstatement that off-site fill imported to the site a century ago is recently added fill is unconscionable.

#### COMPLAINT DATA SHEET

Complaint Number:	201486293	Date Filed:	07/18/2014
Owner/Agent:	OWNER DATA SUPPRESSED	Location:	2655 BRODERICK ST
Owner's Phone:	-	Block:	0955
Contact Name:	-	Lot:	002
Contact Phone:	-	Site:	
Complainant:	COMPLAINANT DATA SUPPRESSED	Rating:	
		Occupancy Code:	
		Received By:	Gregory Slocum
Complainant's Phone:		Division:	INS
Complaint Source:	TELEPHONE		
Assigned to:	BID		
Division:			
Description:	Increased soil level to 2' along 70' retaining wall surcharging retaining wall of 2701 Green St. Soil raised per Shire's geotechnical report ordered by DBI. Hazardous condition on going threatening apartment building at 2701 Green		

Instructions:

#### INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
BID	FESSLER	6252	4	

#### COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
07/18/14	CASE OPENED	BID	Fessler	CASE RECEIVED	
07/24/14	OTHER BLDG/HOUSING VIOLATION	CES	Fessler	CASE CONTINUED	Received report. Will review filed plans for compliance. D Duffy

Figure A.3: Third (pending) complaint regarding raised grade

Mr. Shire's report does make clear that a few inches of soil have accumulated since Appellant's wall was constructed – designated "Type 3" in his report. This additional soil volume is attributable to landscaping activities – the accumulation of duff, tanbark, and the expansion of the soil level as plants mature and root systems expand. Project Sponsor has agreed, per Mr. Shire's recommendation, to remove some of this accumulation in the vicinity of the property line shared with 2701 Green St. It is several inches (not two feet) in depth.

Rationality demands the answers to these questions: 1) Where is there any evidence of the preposterous idea that the original retaining wall was constructed more than two feet higher than the soil it was installed to retain? 2) Are there photographs, permit drawings, or other evidence of that freeboard? 3) What was the methodology for importing several dump truck loads of soil into the landlocked rear yard of 2655 Broderick (hundreds of wheelbarrow loads rolled through the garage and up the stairs to the yard above, or a crane with a scoop soaring over the roof)? And, 4) how did that allegedly raised soil level avoid burying the top of the Project Sponsor's home's rear foundation, and the top of the retaining wall along the Project Sponsor's rear (west) property line, both tops of which are visible today? Were those structures also built, like Appellant apparently believes his retaining wall was, two feet higher than required to retain the soil level original to grading of the lots? DBI experts do not find this to be likely, nor do we.

Appellant's claims are without merit, being unsupported by fact or logic; they have also been examined and refuted repeatedly by the City. In any case, there is no valid CEQA issue regarding a few inches or even the mythical two feet of accumulated fill. Nor is purported site drainage as alleged by Appellant a valid CEQA consideration. This too is under the purview of DBI and the Building Code.

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No 554-5184  
Fax No. 554-5163  
TTD/TTY No. 5545227

**NOTICE OF PUBLIC HEARING**

**BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO**

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

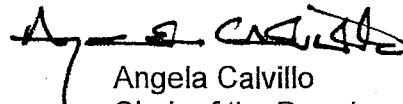
**Date:** Tuesday, February 24, 2015

**Time:** 3:00 p.m.

**Location:** City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102

**Subject:** **File No. 150059.** Hearing of persons interested in or objecting to the determination of categorical exemption from environmental review under the California Environmental Quality Act issued by the Planning Department on December 5, 2014, and approved during the Discretionary Review Hearing of the Planning Commission on December 18, 2014, to legalize an existing 425 square-foot roof deck and stair penthouse; to add a one-hour fire-rated parapet wall along the south property line of the roof deck; and to modify the existing parapet wall/guardrail from 38 inches to 42 inches in height at the existing three-story, single-family house located at 2655 Broderick Street. (District 2) (Appellant: Irving Zaretsky) (Filed January 16, 2015).

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the members of the Board. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, February 20, 2015.

  
Angela Calvillo  
Clerk of the Board

DATED: February 10, 2015  
MAILED/POSTED: February 10, 2015

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

**PROOF OF MAILING**

Legislative File No. 150059

Description of Items:

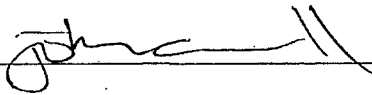
I, John Carroll, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: 2/10/2015

Time: 12:15 p.m.

USPS Location: Clerk's Office USPS Pickup

Mailbox/Mailslot Pick-Up Times (if applicable): 3:00 p.m.

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.

RADIUS SERVICES 1221 HARRISON ST #18 SAN FRANCISCO CA 94103 415-391-4775

BLOCK	LOT	OWNER	ADDR	CITY	STATE	ZIP
0001	001	RADIUS SERVICES NO. 095502NU	2655 BRODERICK ST	ZONECON	14	0519
0001	002	.....	.....	.....	..	..
0001	003	RADIUS SERVICES	1221 HARRISON ST #18	SAN FRANCISCO	CA	94103
0001	004	ZONE CONSULTING	2555 32ND AVE	SAN FRANCISCO	CA	94116
0001	005	.....	.....	.....	..	..
0954	010	CHRISTOPHER LENZO TRS	2786 VALLEJO ST	SAN FRANCISCO	CA	94123-4615
0954	011	REBECCA DRAPER	2628 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954	012	KALES TRS	2634 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954	013	MICHAEL KRAUTKRAMER	2640 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954	014	WOEBER TRS	2646 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954	015	MARY-ANNA RAE	PO BOX 31515	SAN FRANCISCO	CA	94131-0515
0954	015	OCCUPANT	2652 BRODERICK ST	SAN FRANCISCO	CA	94123-4605
0954	016	BEN-HALIM HAYA	2691 GREEN ST	SAN FRANCISCO	CA	94123-4606
0955	001	IRVING ZARETSKY	3111 JACKSON ST #5	SAN FRANCISCO	CA	94115-1081
0955	001	KARDOS-ZARETSKY	2701 GREEN ST	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #1	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #2	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #3	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #4	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #5	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #6	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #7	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #8	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #9	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #10	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #11	SAN FRANCISCO	CA	94123-4639
0955	001	OCCUPANT	2701 GREEN ST #12	SAN FRANCISCO	CA	94123-4639
0955	002	CASEY TRS	2655 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955	003	CLAUDIO ANGELI TRS	2645 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955	004	H & E ELLMAN	2637 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955	005	FORGET TRS	2635 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955	006	POTAMIANOS-HOMEM TRS	420 W BROADWAY #3W	NEW YORK	NY	10012-3708
0955	006	OCCUPANT	2625 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955	006	OCCUPANT	2627 BRODERICK ST	SAN FRANCISCO	CA	94123-4604
0955	007	ORI SASSON TRS	11-EL SUENO	ORINDA	CA	94563-1805
0955	007	OCCUPANT	2800 VALLEJO ST	SAN FRANCISCO	CA	94123-4617
0955	008	MOMIROV TRS	2808 VALLEJO ST	SAN FRANCISCO	CA	94123-4617
0955	009	ALKIRE TRS	PO BOX 2009	KAMUELA	HI	96743-2009
0955	009	OCCUPANT	2820 VALLEJO ST	SAN FRANCISCO	CA	94123-4617
0955	010	ADOLPHUS ANDREWS JR ETAL	600 MONTGOMERY ST	SAN FRANCISCO	CA	94111-2702
0955	010	OCCUPANT	2828 VALLEJO ST	SAN FRANCISCO	CA	94123-4617
0955	012	ROBERT TANDLER ETAL	2856 VALLEJO ST	SAN FRANCISCO	CA	94123-4617
0955	013	EMILY TIEDEMANN TRS	111 PINE ST	SAN FRANCISCO	CA	94111-5602
0955	013	OCCUPANT	2858A VALLEJO ST	SAN FRANCISCO	CA	94123-4617
0955	013	OCCUPANT	2858 VALLEJO ST	SAN FRANCISCO	CA	94123-4617
0955	025	SCHNEIDER TRS	2757 GREEN ST	SAN FRANCISCO	CA	94123-4608
0955	026	JUSTIN MOORE TRS	2761 MARINE WAY	MOUNTAIN VIEW	CA	94043-1127
0955	026	OCCUPANT	2747 GREEN ST	SAN FRANCISCO	CA	94123-4608
0955	031	MATTHEW PAIGE	2820 SCOTT ST	SAN FRANCISCO	CA	94123-3827
0955	031	OCCUPANT	2735 GREEN ST	SAN FRANCISCO	CA	94123-4608
0955	032	KIESELHORST TRS	2731 GREEN ST	SAN FRANCISCO	CA	94123-4608
9999	999	.....	.....	.....	..	..

**BOARD of SUPERVISORS**



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

January 23, 2015

Irving Zaretsky  
3111 Jackson Street  
San Francisco, CA 94115

**Subject: Appeal of California Environmental Quality Act (CEQA) Categorical Exemption Determination from Environmental Review - 2655 Broderick Street**

Dear Mr. Zaretsky:

The Office of the Clerk of the Board is in receipt of a memo dated January 22, 2015, (copy attached), from the Planning Department regarding the timely filing of your appeal of the categorical exemption determination from environmental review for 2655 Broderick Street.

The Planning Department has determined that the appeal was filed in a timely manner.

The appeal filing period closed on Tuesday, January 20, 2015. Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for **Tuesday, February 24, 2015, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by 12:00 noon:

- 20 days prior to the hearing:** names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and
- 11 days prior to the hearing:** any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests one electronic file (sent to [bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)) and one hard copy of the documentation for distribution.

**NOTE:** If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.



If you have any questions, please feel free to contact Legislative Clerks, Joy Lamug at (415) 554-7712 or John Carroll at (415) 554-4445.

Very truly yours,

A handwritten signature in black ink, appearing to read "A. Calvillo".

Angela Calvillo  
Clerk of the Board

c:

Mark Casey, Project Owner  
Jon Givner, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Marlena Byrne, Deputy City Attorney  
John Rahaim, Planning Director  
Scott Sanchez, Zoning Administrator, Planning Department  
Sarah Jones, Environmental Review Officer, Planning Department  
Aaron Starr, Planning Department  
AnMarie Rodgers, Planning Department  
Mary Woods, Planning Department  
Jonas Ionin, Planning Commission Secretary



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

**DATE:** January 22, 2015  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Sarah B. Jones, Environmental Review Officer  
**RE:** Appeal timeliness determination – 2655 Broderick Street,  
Planning Department Case No. 2014.1497D & 2014.1498D

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

An appeal of the categorical exemption for the proposed project at 2655 Broderick Street (Planning Department Case Nos. 2014.1497D & 2014.1498D) was filed with the Office of the Clerk of the Board on January 16, 2015 by Irving Zaretsky, owner of 2701 Green Street.

**Timeline:** The Categorical Exemption was issued on December 5, 2014. The exemption identified the Approval Action for the project as the Discretionary Review Hearing by the Planning Commission, as provided for in Planning Code Section 311, which occurred on December 18, 2014 (Date of the Approval Action).

**Timeliness Determination:** Section 31.16(a) and (e) of the San Francisco Administrative Code states that any person or entity may appeal an exemption determination to the Board of Supervisors during the time period beginning with the date of the exemption determination and ending 30 days after the Date of the Approval Action.

The appeal of the exemption determination was filed on January 16, 2015, which is within the time frame specified above. Therefore the appeal is considered timely.

Section 31.16(b)(4) of the San Francisco Administrative Code states that the Clerk of the Board shall schedule the appeal hearing no less than 21 days and no more than 45 days following expiration of the specified time period for filing of the appeal.





# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

**DATE:** January 22, 2015  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Sarah B. Jones, Environmental Review Officer  
**RE:** Appeal timeliness determination – 2655 Broderick Street,  
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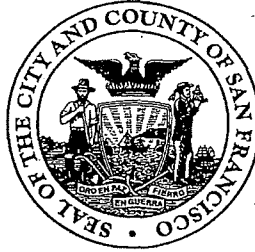
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BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

January 16, 2015

To: John Rahaim  
Planning Director

From: Angela Calvillo *AC*  
Clerk of the Board of Supervisors

**Subject: Appeal of California Environmental Quality Act (CEQA) Categorical Exemption Determination from Environmental Review - 2655 Broderick Street**

An appeal of CEQA Categorical Exemption Determination for 2655 Broderick Street was filed with the Office of the Clerk of the Board on January 16, 2015, by Irving Zaretsky.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department's Office to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks, Joy Lamug at (415) 554-7712, or John Carroll at (415) 554-4445.

c: Jon Givner, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Marlena Byrne, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Sarah Jones, Environmental Review Officer, Planning Department  
AnMarie Rodgers, Planning Department  
Aaron Starr, Planning Department  
Tina Tam, Planning Department  
Mary Woods, Planning Department  
Jonas Ionin, Planning Department

BOARD of SUPERVISORS



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TDD/TTY No. 544-5227

February 11, 2015

**FILE NO. 150059**

Received from the Board of Supervisors-Clerk's Office a check in the amount of Five Hundred Forty Seven Dollars (\$547), representing filing fee paid by Irving Zaretsky (Appellant), for the Appeal of Categorical Exemption for 2655 Broderick Street.

**Planning Department**  
**By:**

Theresa Monerz  
Print Name

[Signature] 2/11/15  
Signature and Date

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

Sponsor(s):

Clerk of the Board

Subject:

Public Hearing - Appeal of Categorical Exemption from Environmental Review - 2655 Broderick Street

The text is listed below or attached:

Hearing of persons interested in or objecting to the determination of categorical exemption from environmental review (Case No. 2014.1497D, Permit No. 2013.09.12.6709; and Case No. 2014.1498D, Permit No. 2013.09.12.6711) under the California Environmental Quality Act issued by the Planning Department on December 5, 2014, to legalize an existing 425 square-foot roof deck and stair penthouse; to add a one-hour fire-rated parapet wall along the south property line of the roof deck; and to modify the existing parapet wall/guardrail from 38 inches to 42 inches in height at the existing three-story, single-family house; and to legalize the as-built condition of a second-story deck and stairs connecting the deck to grade constructed under building permit application number 8504468 at the rear of the building located at 2655 Broderick Street. (District 2) (Appellant: Irving Zaretsky) (File January 16, 2015).

Signature of Sponsoring Supervisor: Alia Jomera

For Clerk's Use Only:

