



City of Santa Barbara
Community Development

Memorandum

DATE: July 7, 2016
TO: Building & Fire Code Appeals Board
FROM: Andrew Stuffer, Chief Building Official
SUBJECT: 314 Ortega – Appeal of Notice of Violation

This is an appeal of the City Building Official's decision to issue a Notice of Violation for violations of the City's Floodplain Management Ordinance (SBMC 22.24). The Board will hear testimony and determine if the City should have issued the Notice of Violation. The technical requirements for complying with the City's Floodplain Management Ordinance are appealable to the City Planning Commission. Consequently, this Board's discussion and decision should be limited to the decision to issue a Notice of Violation.

Both the County and the City participate in the National Flood Insurance Program (NFIP) as a means of allowing our community to benefit from low cost flood insurance, Federal disaster support, Federal backed home and small business loans, and other Federal and State programs that mandate NFIP compliance. Specific NFIP regulations adopted by the City (SBMC 22.24.070 & 22.24.110) require that all alterations to a floodway necessitate the issuance of a City Flood Development Permit. Moreover, the NFIP's regulations 44 CFR 60.3 (below) require that an H&H analysis and bank stabilization analysis be submitted in order for the City to confirm that the permanently repaired bank will neither fail nor raise the base flood elevation when conveying a 100 year floodwater event.

44 CFR 60.3(d)(3): [In the regulatory floodway, communities must] Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

During a recent storm, a portion of the creek wall in the regulatory floodway collapsed. The Santa Barbara County Flood Control office made emergency repairs by placing large boulders along the creek bank, thus fortifying the bank that suffered the loss of the prior concrete fortified bank (see photo 1). City staff have verified with the County Flood Control office that this was an emergency measure and no engineering or hydrologic and hydraulic (H&H) analysis performed. Instead, the County's efforts were limited solely to emergency erosion prevention measures necessary to protect and secure the creek bank for short-term, continued conveyance of flood waters. While the Santa Barbara County Flood Control office made emergency repairs to the collapsed floodway walls, the permanent repairs are a duty of the property owner of the floodway bank.

This is the basis for the City to issue a Notice of Violation per SBMC 22.24.130(I) and require the property owner of the effected creek bank to submit the minimum necessary analysis, obtain a City Flood Development Permit, and complete any floodway bank stabilization repairs necessary.

Copy: 314 Ortega - Street File

Attached: Appellant's letter and documentation
SBMC 22.24.070 & 22.24.110 & 22.24.130

Chapter 22.24

FLOOD PLAIN MANAGEMENT

Sections:

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22.24.010 Findings of Fact.

A. The flood hazard areas of the City of Santa Barbara are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.020 Statement of Purpose.

It is the purpose of the chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
 - B. To minimize expenditure of public money for costly flood control projects;
 - C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - D. To minimize prolonged business interruptions;
 - E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
 - F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - G. To insure that potential buyers are notified that property is in an area of special flood hazard; and
 - H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.030 Methods of Reducing Flood Losses.

In order to accomplish its purposes, this Chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.040 Definitions.

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

A. **APPEAL.** A request for a review of the Chief of Building and Zoning's interpretation of any provision of this Chapter or a request for a variance.

B. **AREA OF SHALLOW FLOODING.** An area designated AO, AH or VO Zone on the Flood Insurance Rate Map (FIRM) and as to which the base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

C. **AREA OF SPECIAL FLOOD HAZARD.** See "Special flood hazard area".

D. **BASE FLOOD or 100 YEAR FLOOD.** A flood having a one percent (1%) chance of being equalled or exceeded in any given year.

E. **BASEMENT.** An area of a building having its floor subgrade (below ground level) on all sides.

F. **BREAKAWAY WALLS.** Any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which (i) is not part of the structural support of the building; (ii) is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building or to any buildings to which they might be carried by flood waters; (iii) has a safe design loading resistance of not less than ten and no more than twenty pounds per square foot; and (iv) has been certified for use in the building by a registered engineer or architect and meets the following standards:

1. Breakaway wall collapse will result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building will not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

G. **COASTAL HIGH HAZARD AREA.** An area subject to high velocity waters, including coastal and tidal inundation or tsunamis and designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, Ve or V.

H. **DEVELOPMENT.** Any man-made change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

I. **FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of flood waters;

2. The unusual and rapid accumulation or runoff of surface waters from any source; or

3. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

J. **FLOOD BOUNDARY AND FLOODWAY MAP.** The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

K. **FLOOD INSURANCE RATE MAP (FIRM).** An official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

L. **FLOOD INSURANCE STUDY.** An official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

M. **FLOODPLAIN or FLOOD-PRONE AREA.** Any land area susceptible to being inundated by water from any source (see definition of "flooding").

N. **FLOODPLAIN MANAGEMENT.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

O. **FLOODPLAIN MANAGEMENT REGULATIONS.** Zoning ordinances, subdivision regulations, the California Building Code as adopted and amended by the City, health regulations, special purpose ordinances (such as floodplain ordinances, grading ordinances and erosion control ordinances) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

P. **FLOODPROOFING.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Q. **FLOODWAY or REGULATORY FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be preserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

R. **FUNCTIONALLY DEPENDENT USE.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes vessel docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

S. **HIGHEST ADJACENT GRADE.** The highest undisturbed elevation of the ground surface prior to construction next to the proposed walls of a structure.

T. **LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

U. **MANUFACTURED HOME.** A structure, transportable in one or more sections, which is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

V. **MANUFACTURED HOME PARK or SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

W. **MEAN SEA LEVEL.** The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

X. **NEW CONSTRUCTION.** A structure for which the "start of construction" occurred on or after the effective date of this Chapter, or any applicable amendment thereto.

Y. **ONE HUNDRED YEAR FLOOD.** See "base flood".

Z. **PERSON.** An individual, firm, partnership, association or corporation, or agent of the foregoing, or this state or its agencies or political subdivisions.

AA. **REMEDY A VIOLATION.** To bring a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance by various means, including but not limited to, protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

BB. **RIVERINE.** Relating to, formed by, or resembling a river (including tributaries), stream, or brook.

CC. **SAND DUNES.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

DD. **SPECIAL FLOOD HAZARD AREA (SFHA).** An area having special flood or coastal high hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-V30, VE or V.

EE. **START OF CONSTRUCTION.** The date the building permit was issued, provided the actual start of construction was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation pursuant to a valid building permit. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.

FF. **STRUCTURE.** A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

GG. **SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, or improvement of a structure within any twenty four (24) month period, the cost of which equals or exceed fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

HH. **VARIANCE.** A grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter.

II. **VIOLATION.** The failure of a structure or other development to be in full compliance with this Chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Chapter is presumed to be in violation until such time as that documentation is provided. (Ord. 5451, Section 5, 2008; Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.050 Lands to Which This Chapter Applies.

This chapter shall apply to all areas of special flood hazards within the City of Santa Barbara. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.060 Basis for Establishing the Areas of Special Flood Hazard.

"The Flood Insurance Study for The City of Santa Barbara", dated May 4, 1978 and revised October 15, 1985, and December 3, 1991 and all subsequent revisions by the U. S. Federal Emergency Management Agency with accompanying Flood Insurance Rate Maps is hereby adopted by reference and declared to be a part of this Chapter. Copies of the Flood Insurance Study and maps referred to therein, shall be maintained on file at 630 Garden Street, Santa Barbara, California, and at the Office of the City Clerk, City Hall, Santa Barbara, California. The Flood Insurance Study establishes the areas of special flood hazard identified by the Federal Emergency Management Agency or the Federal Insurance Administration. These areas are the minimum area of applicability of this Chapter; their boundaries may be changed, or new areas designated by the City Council following a recommendation thereon by the Chief of Building and Zoning. (Ord. 4731, 1991; Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.070 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.080 Abrogation and Greater Restrictions.

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.090 Interpretation.

In the interpretation and application of this Chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and, deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.100 Warning and Disclaimer of Liability.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Santa Barbara, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter or any administrative decision made thereunder. (Ord.4522, 1988; Ord. 3972, 1978.)

22.24.110 Establishment of Development Permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard. Application for a development permit shall be made on forms furnished by the Chief of Building and Zoning and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities; and the location of the foregoing. The following information is required on an application:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO or VO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures.
- B. Elevation in relation to mean sea level to which any structure has been will be floodproofed;
- C. All certifications required by Sections 22.24.130F and 22.24.160; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.120 Designation of the Chief of Building and Zoning.

The Chief of Building and Zoning is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.130 Duties and Responsibilities of the Chief of Building and Zoning.

Duties of the Chief of Building and Zoning shall include, but not be limited to:

- A. Review of all development permits to determine that the permit requirements of this Chapter have been satisfied.

B. Review of all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

C. Review of all development permits to determine that the site is reasonably safe from flooding and will not result in flood elevations increasing more than one foot.

D. Review of all development permits to determine if the proposed development adversely affects the flood carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this Chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.

E. When base flood elevation data in accordance with Section 22.24.060 is unavailable, the Chief of Building and Zoning shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Section 22.24.160 pertaining to specific standards for residential and nonresidential construction.

F. Maintain for public inspection all records pertaining to the provisions of this Chapter, including:

1. The certification required in Section 22.24.160.C.1 (floor elevations);
2. The certification required in Section 22.24.160.C.2 (elevations in areas of shallow flooding);
3. The certification required in Section 22.24.160.C.3 (elevation or floodproofing of nonresidential structures);
4. The certification required in Section 22.24.160.C.3 (wet floodproofing standard);
5. The certified elevation required in Section 22.24.160.E.2 (subdivision standards);
6. The certification required in Section 22.24.180.A (floodway encroachments); and
7. The information required in Section 22.24.170 (coastal construction standards).

G. Notify adjacent communities, the Santa Barbara County Flood Control and Water Conservation District, and the California Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. Require that the flood carrying capacity of the altered or relocated portion of the watercourse is maintained.

H. Make interpretations as to the exact location of the boundaries of the areas of special flood hazards, (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The persons contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 22.24.140.

I. Take action to remedy violations of this Chapter as specified in Section 22.24.070. (Ord. 4539, 1988; Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.140 Variance and Appeal Procedure.

A. The Planning Commission of the City of Santa Barbara shall hear and decide appeals and requests for variances from the requirements of this Chapter.

B. The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Chief of Building and Zoning in the enforcement or administration of this Chapter.

C. The applicant or any interested person may appeal the decision of the Planning Commission to the City Council in accordance with the procedures provided in Section 1.30.050 of this Code.

D. In reviewing such application, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and each of the following:

1. The danger that materials may be swept onto other lands to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a waterfront location, where applicable.
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the General Plan and Flood Plain Management Program for that area.
9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items identified in Paragraph D have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

F. Upon consideration of the factors identified in Paragraph D and the purposes of this Chapter, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

G. The Chief of Building and Zoning shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 5136, 1999; Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.150 Conditions for Variances.

A. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided the provisions of Section 22.24.140D are satisfied and that the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

2. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 22.24.140.D, or conflict with existing local laws or ordinances.

F. An applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Chief of Building and Zoning in the office of the Santa Barbara County Recorder in a manner so that it appears in the chain of title of the affected parcel of land. (Ord. 4522, 1988, Ord. 3972, 1978.)

22.24.160 General Standards for Flood Hazard Reduction.

In all areas of special flood hazards the following standards shall apply:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. All manufactured homes shall be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement, and shall be elevated so that the lowest floor is at or above the base flood elevation, unless a higher elevation is required by the Chief of Building and Zoning.

B. Construction Material and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. Require within Zones AH, AO or VO, adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Floodproofing.

1. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation, unless a higher elevation is required by the Chief of Building and Zoning. Nonresidential structures may meet the standards in subsection 3. below. Upon the completion of the structure the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor, or verified by the building inspector to be properly elevated. Such certification or verification shall be provided to the Chief of Building and Zoning.

2. New construction and substantial improvement of any structure in Zone AO or VO shall have the lowest floor, including basement, elevated at least as high as the depth number specified in feet on the FIRM, or at least two feet above the highest adjacent grade if no depth number is specified. Nonresidential structures may meet the standards in subsection 3. below. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the building inspector to be properly elevated. Such certification or verification shall be provided to the Chief of Building and Zoning.

3. Nonresidential construction shall either be elevated in conformance with subsection 2. above or, together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects for buoyancy; and
- c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Chief of Building and Zoning.

4. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or
- b. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.

5. Manufactured homes shall also meet the standards in subsection A.2. above.

D. Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. Subdivision Proposals.

1. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

2. All final subdivision plans shall provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Chief of Building and Zoning.

3. All subdivision proposals shall be consistent with the need to minimize flood damage.

4. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

5. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.170 Coastal High Hazard Areas.

Within coastal high hazard areas established pursuant to Section 22.24.060, the following standards shall apply:

A. All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation, unless a higher elevation is required by the Chief of Building and Zoning.

B. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation or storage.

C. Fill shall not be used for structural support of buildings.

D. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

E. The Chief of Building and Zoning shall obtain and maintain the following records:

1. Certification by a registered engineer or architect that a proposed structure complies with subsection A above.

2. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement. (Ord. 4522, 1988; Ord. 3972, 1978.)

22.24.180 Floodways.

Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply to floodways.

A. No encroachments, including fill, new construction, substantial improvements, and other development are permitted unless a registered professional engineer or architect certifies that the development will not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If subsection A above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 22.24.160 and 22.24.170.

C. No mobile homes may be placed in any floodway, except in a mobile home park or mobile home subdivision established prior to the effective date of this Chapter. (Ord. 4522, 1988; Ord. 3972, 1978.)



City of Santa Barbara
Building and Safety Division
www.SantaBarbaraCA.gov

REQUEST FOR APPEALS BOARD HEARING

Subject Property Address 314 W Ortega St, SB, CA 93101 APN 037-073-012 Date 6/13/16
Owner's Name Kipp Young / KC Young LLC
Owner's Address 1122 Bel Air Dr, SB, CA 93105 (Phone) (509) 949-6996
Owner's Email Address dr.kippyyoung@gmail.com

Decision Being Appealed

A brief statement specifying order or action protested: I received a Violation Notice that an "unsafe condition" exists on my property in the Mission Creek bank walls, and that I must replace said walls with engineered walls.

- Further explanation attached.
- Copy of protested notice attached.

A brief statement of the reason the protested order or action should be reversed, modified or otherwise set aside:
I don't believe this is a homeowner responsibility. Santa Barbara City & County already have plans to rebuild the channel walls. This is within their purview.

You will be notified within 30 days of the date of your hearing.

Signature

I certify under penalty of perjury that the foregoing, to the best of my knowledge, is true and correct. I also acknowledge that the Board cannot waive any Code requirements and will only determine the proper application of the code.

Signature 

Questions

For further information contact the Building & Safety Division at (805) 564-5485

Hours: Monday-Friday *
8:30 a.m. to 4:30 p.m.
*Closed Alternate Fridays
www.SantaBarbaraCA.gov

Address: 630 Garden St, Santa Barbara, CA 93101
Phone: (805) 564-5485

City of Santa Barbara
Building and Safety Division

JUN 14 2016

RECEIVED



City of Santa Barbara
Community Development Department

www.SantaBarbaraCA.gov

5/24/2016

K.C. Young, LLC
1122 Bel Air Dr.
Santa Barbara, CA 93105

Director's Office
Tel: 805 564 5502
Fax: 805 564 5506

RE: Notice of Violation Appeal Rights for 314 W ORTEGA ST

Dear Parcel Owner,

Building & Safety
Tel: 805 564 5485
Fax: 805 564 5476

It has come our attention that our office may have delivered a Notice of Violation to you without the following due process notification:

Housing &
Redevelopment
Tel: 805 564 5461
Fax: 805 564 5477

Any party aggrieved by this decision of the City Chief Building Official or Fire Marshal, including but not limited to citation of a violation, refusal, suspension, voiding, or revocation of a license or permit, may appeal such decision to the Building and Fire Code Board of Appeals by obtaining an appeal form on the internet at <http://www.santabarbaraca.gov/services/planning/forms/building.asp> or from the City Building & Safety office and submitting the form within twenty (20) days from the date of this notice. The completed appeal form must be delivered to the City Building & Safety office located at 630 Garden St., Santa Barbara, CA 93101.

Planning
Tel: 805 564 5470
Fax: 805 897 1904

For information regarding the appeals process, please refer to Santa Barbara Municipal Code Section 22.04.020 or contact the Community Development Department at (805) 564-5502.

Rental Housing
Mediation Task Force
Tel: 805 564 5420
Fax: 805 564 5477

This letter serves as a supplemental amendment to the attached Notice of Violation. Consequently, the abatement timeframes and appeal period in the attached Notice of Violation are reset so that the new effective date of the attached Notice of Violation is the date of this letter. All abatement deadlines mentioned in the attached Notice of Violation are also reset accordingly.

630 Garden Street
PO Box 1590
Santa Barbara, CA
93102-1990

Sincerely,


Rick Welch, City Building Inspector

(805) 897-1943

Attached: Prior Notice of Violation

C: Street File - 314 W ORTEGA ST



City of Santa Barbara
Community Development Department

www.santabarbaraCA.gov

Building & Safety Division
Amended Notice of Violation

Director's Office

Tel: 805 564 5502

Fax: 805 564 5501

August 8, 2014

Administration, Housing

& Human Services

Tel: 805 564 5461

Fax: 805 564 5177

Building & Safety

Tel: 805 564 5435

Fax: 805 564 5476

Planning

Tel: 805 564 5170

Fax: 805 564 5177

Rental Housing

Mediation Task Force

Tel: 805 564 5420

Fax: 805 564 5177

630 Garden Street

PO Box 1629

Santa Barbara, CA

93102-1629

K.C. Young, LLC
1122 Bel Air Dr.
Santa Barbara, CA 93105

APN: 037-073-012

Case Number: ENF2014-00349

Subject Property: 314 W. Ortega, Santa Barbara, CA, 93101

Dear K.C. Young, LLC:

Due to the results of a Zoning Information Report following a Zoning inspection at the Subject Property on April 30, 2014, in addition to the results of an inspection by the Building & Safety Division on June 11, 2014, Building & Safety has found the Property to be in violation of Santa Barbara Municipal Code Section 22.04.010 as follows:

VIOLATION: The garage shown on the last approved site plan was removed from the site without a demolition building permit.

CODE SECTION: 2013 California Residential Building Code 105.1 Permits Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

REMEDY: Obtain city approval for the current configuration or correct it so that it can obtain city approval. **Plans Required.** Bring this Notice to the Building Permit Counter at 630 Garden Street. Ask for an explanation of the plan submittal that will be required for as-built permit application and issuance. Submit a site plan to restore the area to its legally permitted configuration and use. Be aware that permit issuance must be obtained by the dates prescribed in this Notice. If permits are not obtained within the prescribed time frames, you will be ordered to obtain a demolition permit immediately.

VIOLATION: An unsafe condition exists on private property in the Mission Creek bank walls, one of which collapsed in 2010 and was replaced on an emergency basis by the Santa Barbara Flood Control District.

CODE SECTION: 2012 International Property Maintenance Code 108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous.

(3.) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

REMEDY: Provide a signed stamped letter from a civil engineer verifying the structural integrity of the current bank walls on private property, or replace them with engineered walls.

The Building Official has determined that the violations on the Property must be abated in an expeditious manner.

- **A permit must be obtained and work commenced within 30 days of the date of this Notice of Violation.**
- **Work must be completed and all violations abated within 60 days of the date of permit issuance.**

If either of these dates is not met, further legal action may be necessary.

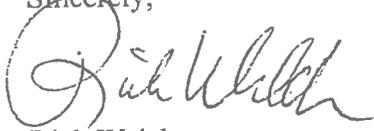
This Notice of Violation identifies the concerns of the Building and Safety Division of the City of Santa Barbara. Other departments or divisions of this City and other governmental agencies may have additional concerns or requirements.

Pursuant to California Revenue and Taxation Code sections 17274 and 24436.5, the City may forward information regarding you and any other owners of the above-referenced property to the State Franchise Tax Board for violations of State and City laws related to health, safety, and building if the above listed property constitutes substandard housing. This action will prevent you, any other owners, or subsequent owners from deducting interest, taxes, depreciation, or amortization for the above-referenced property on state income taxes. In order to prevent this, you must immediately comply with all State and City laws to abate all violations.

My direct office phone number is (805) 897-1943. My e-mail address is rwelch@santabarbaraca.gov. Our offices are closed every other Friday; please call 564-5485 to find out the Friday we will be closed. My office hours are 7:30 a.m. to 4:30 p.m. Monday, 9 a.m. to 4:30 p.m. on Thursday, and 7:30 a.m. to 4 p.m. on alternate Fridays. The

Community Development public counters are located at 630 Garden Street. Additional information is available online at www.SantaBarbaraCa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Welch". The signature is written in a cursive style with a large initial "R".

Rick Welch,
Building Inspector/Code Enforcement

cc: file



City of Santa Barbara

APPEAL HEARING PROCEDURES

Appeal public hearings are held at either the City Council Chambers or the David Gebhard Public Meeting Room. Below is information on the order of presentations at appeal hearings.

CITY COUNCIL CHAMBERS

1. **City Council hearings:**

The order of presentation after the Deputy City Clerk introduces the item is as follows:

1. Presentation by Staff (20 minutes)*.
2. Presentation by Appellant (including petitioners and applicants who are appellants) (30 minutes)*.
3. Presentation by Applicant (if they are not the appellant) (30 minutes)*.
4. Additional response by Staff (10 minutes)*.
5. Public Hearing (30 minutes)*.
6. Questions and comments by the Council and Council deliberation (30 minutes).
7. Motion, discussion of motion, and vote by the Council.

2. **Planning Commission hearings:**

The order of presentation after the Chairperson introduces the item is as follows:

1. Presentation by Staff (15 minutes)*.
2. Presentation by Appellant (including petitioners and applicants who are appellants) (15 minutes)*.
3. Presentation by Applicant (if they are not the appellant) (15 minutes)*.
4. Public Hearing*.
5. Questions and comments by the Commission.
6. Commission consideration of Findings and Conditions of Approval.
7. Motion, discussion of motion, decision, and vote by the Commission.

DAVID GEBHARD PUBLIC MEETING ROOM

1. **Sign Committee appeal hearings held by the Architectural Board of Review or Historic Landmarks Commission:**

The order of presentation after the Chairperson introduces the item is as follows:

1. Presentation by Staff (5 minutes)*.
2. Presentation by Appellant (including petitioners and applicants who are appellants) (5 minutes)*.
3. Presentation by Applicant (if they are not the appellant) (5 minutes)*.
4. Public Hearing*.
5. Questions and comments by the Board/Commission.
6. Commission consideration of Findings and Conditions of Approval.
7. Motion, discussion of motion, decision, and vote by the Board/Commission.

2. **Application Completeness hearings held by the Staff Hearing Officer:***

The order of presentation after the Staff Hearing Officer introduces the item is as follows:

1. Presentation by Staff (5 minutes)*.
2. Presentation by Appellant (including petitioners and applicants who are appellants) (5 minutes)*.
3. Presentation by Applicant (if they are not the appellant) (5 minutes)*.
4. Public Hearing*.
5. Questions and comments by the Staff Hearing Officer.
6. Motion, discussion of motion, decision, and vote by the Staff Hearing Officer.

3. Appeal hearings held by the Building and Fire Code Board of Appeals:*

The order of presentation after the Chairperson introduces the item is as follows:

1. Presentation by Staff (5 minutes)*.
2. Presentation by Appellant (including petitioners and applicants who are appellants) (5 minutes)*.
3. Public Hearing*.
4. Questions and comments by the Board.
5. Motion, discussion of motion, decision, and vote by the Board.

***Time limits may be limited or extended at the discretion of the Mayor/Chairperson.**



City of Santa Barbara

WRITTEN CORRESPONDENCE

The public is encouraged to submit written correspondence to the decision-makers as early as possible for their consideration. All written correspondence is forwarded by staff to the decision-makers and is included as part of the official record. Please note that written correspondence is not read into the record at the hearings. Below is information on distribution of written correspondence for appeal hearings.

APPEALS HEARD BY THE CITY COUNCIL:

No. of Copies: Representatives and members of the public wishing to provide written correspondence to the City Council and appropriate staff should provide 11 copies.

Receipt of Correspondence: Written correspondence may be mailed directly to the Santa Barbara City Clerk's Office, P.O. Box 1990, Santa Barbara, CA 93102-1990; hand delivered to the City Clerk's Office at 735 Anacapa Street; or presented at the hearing while speaking. If mailed or hand delivered, please ensure that the documents will be received with sufficient lead time to allow distribution prior to the meeting.

If representatives wish to have their written correspondence included in the agenda packet, which is also published on the City's website, copies must be submitted to the City Clerk's Office no later than the close of business on Tuesday, one week prior to the hearing date.

SHO APPEALS HEARD BY THE PLANNING COMMISSION:

No. of Copies: Representatives and members of the public wishing to provide written correspondence to the Planning Commission and appropriate staff should provide 13 copies.

Receipt of Correspondence: Written correspondence may be hand-delivered prior to the meeting at the Planning Division Office, 630 Garden St; by mail to the Planning Commission Secretary, P.O. Box 1990, Santa Barbara, CA 93102-1990; or by email at PCSecretary@SantaBarbaraCa.gov.

If people wish to have their written correspondence included in the mailing to the Planning Commission, copies must be submitted to the Planning Commission Secretary no later than the close of business on Tuesday, one week prior to the hearing date.

Written comments are accepted at, and up to, the time of the hearing; however, the Planning Commission may not have time to consider materials submitted after the deadline.

SIGN COMMITTEE APPEALS HEARD BY THE ARCHITECTURAL BOARD OF REVIEW:

No. of Copies: Representatives and members of the public wishing to provide written correspondence to the Architectural Board of Review and appropriate staff should provide 8 copies.

Receipt of Correspondence: Written correspondence may be hand-delivered prior to the meeting at the Planning Division Office, 630 Garden St; by mail to the Architectural Board of Review Secretary, P.O. Box 1990, Santa Barbara, CA 93102-1990; or by email at ABRSecretary@SantaBarbaraCa.gov.

If people wish to have their written correspondence forwarded to the Architectural Board of Review prior to the meeting, copies must be submitted to the ABR Secretary no later than 10 a.m. of the hearing date.

Written comments are accepted at, and up to, the time of the hearing; however, the Architectural Board of Review may not have time to consider materials submitted after the deadline.

SIGN COMMITTEE APPEALS HEARD BY THE HISTORIC LANDMARKS COMMISSION:

No. of Copies: Representatives and members of the public wishing to provide written correspondence to the Historic Landmarks Commission and appropriate staff should provide 10 copies.

Receipt of Correspondence: Written correspondence may be hand-delivered prior to the meeting at the Planning Division Office, 630 Garden St; by mail to the Historic Landmarks Commission Secretary, P.O. Box 1990, Santa Barbara, CA 93102-1990; or by email at HLCSecretary@SantaBarbaraCa.gov.

Appeal Process

If people wish to have their written correspondence forwarded to the Historic Landmarks Commission prior to the hearing, copies must be submitted to the HLC Secretary no later than the close of business on Tuesday prior to the hearing date.

Written comments are accepted at, and up to, the time of the hearing; however, the Historic Landmarks Commission may not have time to consider materials submitted after the deadline.

APPLICATION COMPLETENESS DETERMINATIONS HEARD BY THE STAFF HEARING OFFICER:

No. of Copies: Representatives and members of the public wishing to provide written correspondence to the Staff Hearing Officer and appropriate staff should provide 4 copies.

Receipt of Correspondence: Written correspondence may be hand-delivered prior to the meeting at the Planning Division Office, 630 Garden St; by mail to the Staff Hearing Officer Secretary, P.O. Box 1990, Santa Barbara, CA 93102-1990; or by email at SHOSecretary@SantaBarbaraCa.gov.

If people wish to have their written correspondence forwarded to the Staff Hearing Officer prior to the hearing, copies must be submitted to the SHO Secretary no later than the close of business on Monday prior to the hearing date.

Written comments are accepted at, and up to, the time of the hearing; however, the Staff Hearing Officer may not have time to consider materials submitted after the deadline.

APPEALS HEARD BY THE BUILDING AND FIRE CODE BOARD OF APPEALS:

No. of Copies: Representatives and members of the public wishing to provide written correspondence to the Board and appropriate staff should provide 10 copies.

Receipt of Correspondence: Written correspondence may be hand-delivered prior to the meeting at the Building & Safety Division Counter, 630 Garden St; by mail to the Chief Building Official, P.O. Box 1990, Santa Barbara, CA 93102-1990.

If people wish to have their written correspondence forwarded to the Board prior to the hearing, copies must be submitted to the Chief Building Official no later than 10 calendar days prior to the hearing date.

Written comments are accepted at, and up to, the time of the hearing; however, the Board may not have time to consider materials submitted after the deadline.



City of Santa Barbara

APPEAL HEARING GUIDELINES

Below is additional information on appeal hearing guidelines and visual presentations.²

PUBLIC COMMENT PROCEDURE

1. Complete a "Request to Speak" form and submit it to City Staff at the hearing prior to the time the item is taken up.
2. When the public hearing is opened, the Mayor/Chairperson will call out the names of the persons requesting to speak on the item.
3. After receiving recognition from the Mayor/Chairperson, please approach the podium and speaking into the microphone, state your name and make your comments.

Please note that individual public comment is limited to a maximum of 2 minutes (including any video or computer presentations).*

COMPUTER PRESENTATIONS*

Representatives or members of the public wishing to make a computer presentation must provide their own laptop, which must be set up at Council Chambers. It is highly recommended that people set up a time to test their equipment prior to the meeting, in order to ensure their presentation projects properly. If assistance is needed, contact City TV at (805) 564-5311. People wishing to test their equipment prior to the meeting date should contact City TV at least 48 hours prior to the meeting to make arrangements. Additionally, please contact City Planning Staff at (805) 564-5578 to confirm time limitations for said presentations, and for hearings held at the David Gebhard Public Meeting Room.

VIDEOS*

Representatives or members of the public wishing to play a video during the hearing should contact City TV at (805) 564-5311 at least 48 hours prior to the meeting to make arrangements. Additionally, please contact City Planning Staff to confirm time limitations for said presentations.

AMERICANS WITH DISABILITIES ACT

If you need auxiliary aids or services or staff assistance to attend or participate in these meetings, please contact the City Administrator's Office at (805) 564-5305 for City Council appeals or the Planning Division at (805) 564-5578 for all other appeals. If possible, notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements. Specialized services, such as sign language interpretation or documents in Braille, may require additional lead time to arrange.

AGENDA TIME

It is not possible to determine the precise time an item will be heard. Monitoring the live broadcast may assist in determining when the item will be heard. (Appeal hearings are broadcast live on Government Access Television Channel 18 & online at <http://www.santabarbaraca.gov/gov/depts/cityadmin/watch/default.asp>) Any continued items are announced at the beginning of the meeting by the Chairperson. Videos of previously recorded hearings may be found at <http://www.santabarbaraca.gov/gov/news/video/>. Please refer to the appropriate decision-making body. For further assistance you may contact the Planning Counter at (805) 564-5578 during office hours. Please note that video recordings may not be available for all public hearings.

***Time may be limited or extended by the Mayor/Chairperson.**

² Contact City Staff prior to the hearing to confirm logistics and limitations related to visual presentations.