



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

REQUEST FOR APPEALS BOARD HEARING

Subject Property Address 29-31 E. VICTORIA ST. APN L 039-133-009 Date 1/12/16
 Owner's Name MICHAEL CHENOWETH
 Owner's Address - (Phone) 570-2815
 Owner's Email Address mchenoweth@radiusgroup.com 879-9608

Decision Being Appealed

A brief statement specifying order or action protested:

Fire Chief's determination that fire sprinklers are required throughout the historic building.

- Further explanation attached. *SEE ATTACHED LETTERS RE: CODE MODIFICATION REQUEST.*
 Copy of protested notice attached.

A brief statement of the reason the protested order or action should be reversed, modified or otherwise set aside:

The project proposes to create openings in the wall between two existing one-story tenant spaces accessed directly off Victoria Street. Please see our attached letter requesting code modification for reasons we believe an alternative fire safety method can be an acceptable alternative to fire sprinklers in this case. This is particularly important due to the historic value of the building and applicability of the California Historic Building Code.

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 *M. P. Pildat*
BILDSTEN ARCHITECTURE
AND PLANNING 845-2646

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



December 16, 2015

Joe Poire, Fire Marshall
City of Santa Barbara Fire Department
P.O. Box 1990
Santa Barbara, CA 93102

Re: *Code Modification request for Ca'Dario pizzeria tenant improvements at
29-31 East Victoria Street, Santa Barbara, CA 93101*

Dear Mr. Poire,

I am the architect working with Dario Furlati to assist him in applying for a building permit to create two 4'-0" wide openings in the demising wall between two tenant spaces in the existing building at 29-31 East Victoria Street. The building has a total of five similarly sized tenant spaces, two of which are presently permitted and configured in the same fashion. There is no additional floor area proposed to the building and the uses of the other spaces are the same or very similar. The occupancy load of each space is under 49 occupants and each has its own exit to Victoria Street

The total combined area of the two tenant spaces in question is less than 1600 net square feet. In light of the HLC-determined historic status of the 1922 building and the resulting "Qualified Historic Building" status and applicability of the California Historical Building Code (CHBC), we respectfully request a code modification of the California Building and Fire Code using alternative materials and methods as well as acceptance of provisions found in the California Historical Building Code. These alternate methods and code modifications can also be reviewed under §104.8 and §104.9 of the City adopted California Fire Code.

CFC §104.8 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the fire code official shall have the authority to grant modifications for individual cases, provided the fire code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the files of the department of fire prevention.

CFC §104.9 Alternative materials and methods. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. The fire code official is authorized to approve an alternative material or method of construction where the fire code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

Please also see

CHBC §8-410.1 Every qualified historical building or property which cannot be made to conform to the construction requirements specified in the regular code for the occupancy or use, and which constitutes a distinct fire hazard (for definition of "distinct hazard," see Chapter 8-2), shall be deemed to be in compliance if provided with an automatic sprinkler system or a life-safety system or other technologies as approved by the enforcing agency. (emphasis added)

Please also see the definition below and clarify what the "distinct fire hazard" is in this case –

§8-201 – Distinct Hazard. Any clear and evident condition that exists as an immediate danger to the safety of the occupants or public right of way. Conditions that do not meet the requirements of current regular codes and ordinances do not, of themselves, constitute a distinct hazard. Section 8-104.3, SHBC appeals, remains applicable.

And lastly, please also see: **8-302.2 Change in occupancy.** The use or character of the occupancy of a qualified historical building or property may be changed from or returned to its historical use or character, provided the qualified historical building or property conforms to the requirements applicable to the new use or character of occupancy as set forth in the CHBC. Such change in occupancy shall not mandate conformance with new construction requirements as set forth in regular code. (emphasis added)

Background

The one-story 1922 building is constructed of plastered exterior and demising masonry walls that have been seismically retrofitted. As a result, the historic building's aesthetics, historic and structural integrity of the ceilings and masonry walls would be seriously impacted and undermined by the installation of fire sprinklers, as affirmed by the fire sprinkler installation company (RJ Fire Sprinkler Systems) consulted for this project. Other factors to consider in this request are the proximity to two fire stations (#1 and #3), each just a few blocks away, the proximity to the fire hydrant right down the street from the building, consideration that the mechanical systems of the two tenant spaces are and will remain independent of one another. The building is not in a High Fire area and few buildings in the neighborhood have fire sprinklers. There is no known loss history or exposure to any hazardous conditions on site.

Sprinklers can develop leaks, and have in some cases caused significant damage. Often, they do not work when water supplies are affected, typical of post-earthquake events conditions. Building (and Fire) Code Officials acknowledge shortcomings in relying too heavily on automatic fire sprinkler systems and instead favor passive fire resistive construction building material requirements. Sprinkler systems, as you are aware, are also heavy and add to the seismic load imposed on the buildings where they are installed.

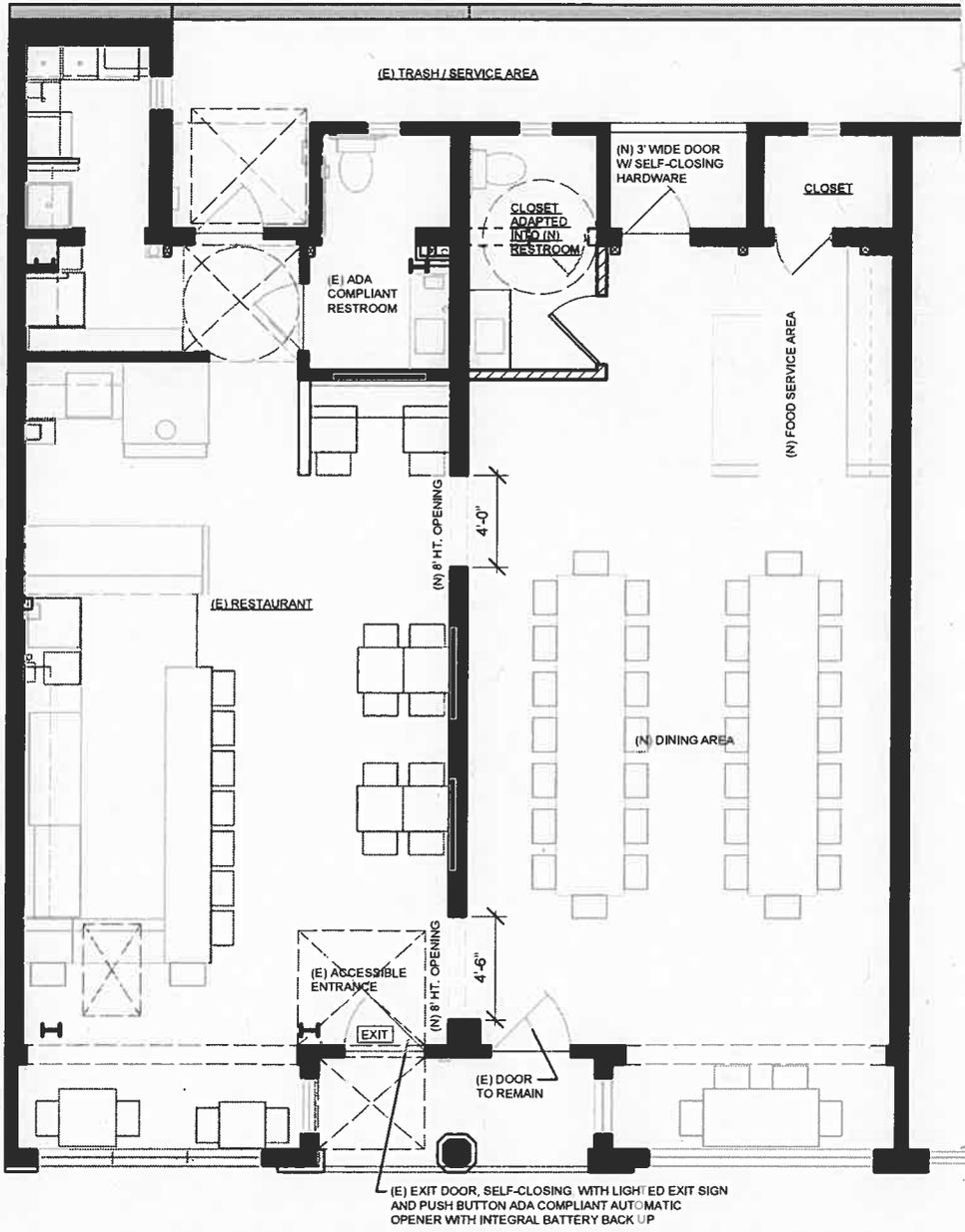
The City Fire and Building Departments have granted other sprinkler substitution code modifications in the past including the use of fire resistive materials, automatic fire door closures at demising walls and/or quick detection alert 24/7 monitoring using heat as well as smoke detection and manual pull box stations for early alert of a building fault or hazardous condition leading to a fire. It is our understanding that a decision to deny the code modification or alternate method request may be appealed to the City of Santa Barbara Building & Fire Code Board of Appeals and if necessary, the California State Historic Building Safety Board of Appeals. The Fire and/or Building Department staff may recommend the granting, denial or make no recommendation concerning their stated position of such an appeal filed.

We respectfully request your consideration of one or more of the above alternative methods and or code modifications in lieu of the installation of fire sprinklers. We thank you in advance for your consideration of this request and look forward to a speedy resolution of this issue.

Sincerely,

*Ellen Bildsten, Architect AIA, LEED AP
Bildsten Architecture and Planning, Inc.
424 Olive Street, SB, CA 93101
805. 845-2646 studio
www.sb-designgroup.com
2011 President of AIA Santa Barbara
American Institute of Architects*

Cc: Paul Casey, Acting City Administrator
George Buell, Community Development Director
Andrew Stuffer, Chief Building Official



29 E VICTORIA ST

31 E VICTORIA ST



1

Proposed Floor Plan

1/8" = 1'-0"



City of Santa Barbara

Fire Department

www.SantaBarbaraCA.gov

December 22, 2015

Ellen Bildsten, Architect AIA, LEED AP
Bildsten Architecture and Planning, Inc.
424 Olive Street, SB, CA 93101

Administration

Tel: 805.965.5254

Fax: 805.564.5730

Fire Prevention/ Public Education

Tel: 805.564.5702

Fax: 805.564.5715

121 W. Carillo St.
Santa Barbara, CA
93101

Subject: Code Modification Request, 29-31 E Victoria Street

Dear Ms. Bildsten:

Thank you for your code modification request letter of December 16, 2015. There are several points of interest in your letter, some of which we have discussed in the past, and I will attempt to address them in this letter.

To briefly recap the requirement, sprinklers were invoked for the applicant's proposed project under Municipal Code Chapter 8.04, adopting the California Fire Code; and §903.2.20.5, which states that sprinklers are required when an occupancy in an existing building changes to a *more hazardous* occupancy. In this case, two "B" or "M" occupancies re proposed to be combined to form an "A", or "Assembly" occupancy, a higher hazard. Several code requirements come into play in the creation of an assembly occupancy, including exits and the required separation of exits. In your letter you point out that each of the existing spaces has its own exit to Victoria Street, but if I recall, they are not separated by $\frac{1}{2}$ the diagonal of the area served. The exits therefore do not qualify for an assembly occupancy and site constraints make additional exiting to the rear almost impossible. The addition of automatic sprinklers *reduces* the required separation to $\frac{1}{3}$ the diagonal, which might help the existing exits come closer to meeting the exit width requirement.

In your letter you correctly cite the California Fire Code Sections relating to code modifications sections 104.8 and 104.9.

CFC §104.8 "...provided the fire code official shall first find that special individual reason makes the strict letter of this code impractical *and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements.*" (emphasis mine)

CFC §104.9 "...The fire code official is authorized to approve an alternative material or method of construction where the fire code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, *and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.*"

The emphasized text, therefore, outlines the elements that the code official must find in order to grant the modification. In short, the modification as shown must

1. Meet the general intent and purpose of the code
2. Not lessen health, life and fire safety, and
3. The method offered is equivalent to the code in quality, strength etc.

In review of your letter I don't find a specific proposal or design that meets the above criteria, although you do allude to some general suggestions of allowances made in years past, when the requirements of the code were less stringent and comprehensive. The language of that paragraph and others mirror language used by another consultant in a separate request just days ago and I will answer them in the way I answered that consultant.

Substitution Code Modifications

Heat and smoke detection alone have not been allowed to substitute for automatic sprinklers requirement in many years. They are often used in tandem with such devices but serve different purposes. You are correct that twenty years ago it was occasionally allowed, but modernly they are not used as a *substitute* so much as a *supplement*. Smoke detection is primarily designed to alert sleeping occupants in a residential situation and when used in an assembly are again employed as part of a complete life safety system that includes sprinklers. The argument against installing smoke detection in an open kitchen restaurant is obvious. In addition, smoke detectors and heat detectors are aesthetically more obtrusive on ceiling elements than concealed sprinkler heads and would not solve that design problem. One option that we have allowed in 2015 is a gradual *phasing* of a sprinkler system, such as when construction progresses from area to area throughout an existing building. We have applied this method with mixed results but are always willing to consider the option.

Automatic Fire Doors

We briefly experimented with automatic fire door closures at demising walls in assembly occupancies in the late 1980's and early 1990's. The compromise was a failure because they are easily defeated, sometimes inadvertently, by the building occupants. In addition they are structurally quite heavy and would seem to defeat your goal of minimizing dead load impact on the structure.

Fire Resistive Construction

Although you allude to fire resistive construction of an unspecified type as a potential mitigation, the project itself proposes the *removal* of such construction in the form of opening the wall to create the assembly occupancy. It is often a mistake to assume that passive building fire resistance, such as 5/8 Type X drywall, is the controlling factor in sprinkler requirements. In language that again duplicated the recent code modification request from another consultant, your assertion that code officials "acknowledge the

shortcomings of relying too heavily” on sprinkler systems misstates the entire debate, which applies to the trend in recent years of model code drafters to make greater allowances in construction when sprinklers are present, particularly in allowable area and height of commercial buildings. Currently there are no serious proposals to install passive systems *in lieu* of sprinklers, as your wording suggests. Sprinklers are only one part of a fire resistive building and must always work in balance with other active and passive systems. In California, all new buildings are required to be sprinklered and passive systems are installed pursuant to the California Building and Residential codes. As I told your counterpart, fire sprinkler systems save lives and property by controlling *incipient* fires, which, to a large degree involve the building *contents* more than the structure itself.

The purpose and practical life safety effects of sprinklers:

Our ordinance adopts a number of code sections that the findings are intended to cover, among them Chapter 49 sections relating to wildland and High Fire Hazard Areas. In one part of your letter you indicate a belief that there might be a connection between wildland interface, wildland fires and sprinkler systems by pointing out that Victoria Street is not in the high fire Hazard area. There is not. A sprinkler system is in no way meant to address a structure’s exposure to wildfire and the high fire hazard area plays no role in whether or not a building is sprinklered. Similarly, fire hydrants are already required and are generally placed accordingly in the downtown area, and fire station locations are factored in to all development and do not mitigate code requirements.

Seismic and Aesthetics

Sprinkler systems have been installed in historic and seismically retrofitted structures throughout the city with no significant ill effects. An example is the Granada Theater and Tower, also a seismic retrofit, where sprinklers were installed throughout the building, including the theater’s elaborately decorated Founder’s Room ceiling. In the case of the latter, it is difficult to tell that the concealed heads are present, even when looking for them. Pipe is easily concealed either in attic space or by use of construction elements such as those used to style the interior remodel itself. As I previously mentioned, concealed heads are substantially less obtrusive than detectors of any kind.

Although I am not aware of a seismically retrofitted building that would be rendered unsafe by the addition of sprinklers, such a condition might be considered on a hardship basis if the hazard could be established to a reasonable certainty. In your letter you state that the “...structural integrity of the ceilings and masonry walls would be seriously impacted and undermined by the installation of fire sprinklers, as affirmed by the fire sprinkler installation company (RJ Fire Sprinkler Systems).” The proprietor of RJ Fire Sprinkler Systems, Randall Cazier, is a licensed C-16 sprinkler installer. To my knowledge, he is not qualified as a structural engineer able to speak to the interplay between a small commercial sprinkler system and the host building. RJ Fire Sprinkler Systems and other companies similar to his have installed sprinklers in substantially

older, seismically retrofitted structures throughout Santa Barbara. I cannot recall a single instance where a building was deemed too fragile to support the retrofit. That being said, a licensed structural engineer may be able to shed some light on whether 29 E Victoria has such a deficiency and whether the cost of additional reinforcement may prove to be too much of a hardship.

The Myth of Leaking Sprinklers

Again, this comment has a familiar sound as part of the previous consultant's request and it stands out because we seldom hear it in the year 2015. I will therefore address it by borrowing from my response to the previous consultant: The comment on potential for leaking sprinklers is a well-worn myth that has no support in fact or in any design community. The statistics regarding accidental release of water from a sprinkler system are one in sixteen million heads, too low to be a serious point of discussion, and far below home plumbing leaks ("Myths vs Facts", NFPA.org; "Sprinkler Myths" Buckinghampa.org; et al.). To argue that a life saving device like sprinklers should not be used due to a minuscule leak potential is akin to claiming that drywall should be eliminated because under the right circumstances it has the potential to harbor harmful mildew.

Sprinkler Interruption During a Seismic Event

All public services are subject to interruption during and immediately after an earthquake. However, to infer that because *some* water systems *may* fail under earthquake conditions renders *all* sprinkler systems ineffective is not supported by fact. Most water systems remain viable long enough for sprinklers to do their job and such systems are specifically designed with earthquake bracing in mind. Arguing that a justification for not installing a proven reliable fire protection device because it *may* fail at some point in the life of the system has no foundation in the code or in fact.

California Historical Building Code

We are familiar with the Historical Code and as you point out, CHBC §8-410.1 says, in relevant part: "Every qualified historical building or property which cannot be made to conform to the construction requirements specified in the regular code for the occupancy or use, and which constitutes a distinct fire hazard shall be deemed to be in compliance if provided with an automatic sprinkler system or a life-safety system or other technologies as approved by the enforcing agency". We believe that this argues strongly *in favor* of sprinklers. As I discussed previously, alternatives such as smoke and heat detection, drop down doors and the like are all inappropriate as sprinkler substitutes for different reasons. The *addition* of sprinklers, however, would seem to give the applicant an option when other portions of the existing building, such as exiting, are non-compliant. Adding sprinklers may give the Building Official more flexibility in addressing these deficiencies.

As for §8-201 and 8.302.2: It is not for a simple change in occupancy or a "return to its historical use and character" as the Historical Code intended, but a change in use to a significantly more hazardous use, that of an assembly (A) occupancy. It is not clear at all from the facts that opening a pizza restaurant with an assembly occupant load is in any way a return to a historical character of the building. Assembly occupancies are significantly more hazardous due to increased occupant loads which, coupled with inadequate exiting, present substantial life safety challenges. In addition, as the popularity of a restaurant increases, so does the life safety hazard, as the restaurant begins to operate at maximum capacity (or over) during the busy periods. The applicant's existing assembly occupancy, Ca'Dario, located on the opposite end of the building, has a history of overcrowding and blocked exits (ENF 2014-01141 et al). It is not unreasonable to anticipate similar popularity as the pizza restaurant expands.

Based on the information above we feel it necessary to decline the application for a code modification. As you noted in your letter, the applicant has the option to appeal this decision through the local Building and Fire Code Appeals Board and through the California State Historic Building Safety Board of Appeals. Staff would respectfully recommend denial at such hearings.

If you have any further questions, feel free to email or call me.

Sincerely,

A handwritten signature in black ink, appearing to read "JPoiré", written in a cursive style.

Joseph Poiré,
Fire Marshal

**BILDSTEN
ARCHITECTURE
and PLANNING**



February 1, 2016

Dear members of the Santa Barbara Building and Fire Code Board of Appeals,

Thank you for taking the time to meet with us at this specially-scheduled hearing to review our appeal. We seek your guidance regarding the Fire Chief's determination that fire sprinklers must be provided for the historic building at 29-37 East Victoria Street, due to a proposed internal tenant improvement for Ca'Dario Pizzeria. The following are the points we are appealing:

1. the requirement for "regular" (City amended) code when the CHBC specifically says it is not required for a change of use.
2. the application of the local Fire Code amendments to a historic building as determined by HLC.
3. the denial of reasonable mitigations for the Fire Chief's concerns when the CHBC requires acceptance.
4. the determination by the Fire Chief that there is a distinct hazard in approving what has been allowed before and is present in a variety of existing businesses; this distinct hazard has not been defined.

Precedents for projects similar to this one include Bouchon, Santa Barbara Roasting, the Palace Cafe, as well as Ca'Dario Restaurant. Each of these is evidence that what is proposed is not unsafe or dangerous. Each of these has a certificate of occupancy approved by the City Building Official and City Fire Chief. As such, these arrangements have been demonstrated by the City that they do not present a 'distinct hazard.' If these were determined to be hazardous or unsafe, the City would be obligated to revoke occupancy and enforce abatement of the hazard.

Our code analysis related to creating openings between two currently distinct tenant spaces indicates that each room only requires one exit; the occupant loads should not be added as there is no reason for an occupant in one to go to the other to exit in the event of an emergency. Also, the rear service doors, while not required exits, will be available with signage that they are to remain unlocked during business hours.

It is very important to note that neither the CBC nor CFC requires fire sprinklers in newly-constructed buildings under 5000 square feet in a B or A2 or A3 occupancy. Our entire building is 4420 sf gross, of which the combined tenant space included in this project is 1695 sf gross. No other jurisdiction in Santa Barbara County would require fire sprinklers for the proposed project. Furthermore, CHBC 8-105.2 provides recognition of "other acceptable regulation or methodology" and the SHBSB recognizes the unamended CBC and CFC as such.

Per the CHBC, the Fire Chief must apply the code to a historically-designated building such as this one and reasonably accept alternatives to fire sprinklers. Sprinklers are not required by the CHBC; they can be used to offset hazardous conditions or other problems, which in this case none exist to offset. Reference the SHBSB granting of the Max Factor appeal as evidence that smoke and heat detection have been accepted by them in lieu of fire sprinklers. See attached the minutes of this hearing: http://www.documents.dgs.ca.gov/dsa/shbsb/021301_minutestransc_Max_Factor_Bldg.pdf Please reference CHBC section 8-106.1 that confirms we may follow the guidance provided by former appeals granted.

Beyond these code considerations, we have real concern regarding the dead weight of any newly-installed sprinkler system and hydraulic bracing which would add seismic stresses to an originally unreinforced masonry building which was retrofitted to City accepted standard. This 1922 building was not designed to take these additional fire sprinkler loads in its foundation or wall design. An impartial structural engineer has analyzed these impacts and will provide information about the inadvisability of increasing the loads and penetrating the hollow clay tile walls in order to install fire sprinklers.

We greatly appreciate your consideration of these points and look forward to resolving this fire sprinkler issue with public safety, applicable Code and construction reason each given their due value in your decision. Thank you in advance,

*Ellen Bildsten, Architect AIA, LEED AP
Bildsten Architecture and Planning, Inc.
424 Olive Street, SB, CA 93101
805. 845-2646 studio
ellen@sb-designgroup.com*

*2011 President of AIA Santa Barbara
American Institute of Architects*

SHBSB Meeting
Feb. 13, 2001
Minutes – Item 4

Roll Call.

Members Present

FT - Fred Turner, Alternate
RC - Richard Conrad
LW - Loring Wylie
PS - Pat Sanchez
BB - Bill Batts

RH - Roy Harthorn (Revised 9/26/01,
added RH per his corrections received
by fax)
JS - Jeff Samudio
DH - Richard Hastings
AD - Alan Dryfuss
CK - Cheryl Kasai, Alternate
DC - Dan Chudy

Audience Members

LG - Lambert Giessinger (Preservation Architect Consultant, Max Factor Building)
DD - Mitzi March Mogul (Historian/Consultant, Max Factor Building)
DD - Donelle Dadigan (Max Factor Building, Owner)
KG - Kerry Grimaldi, Department of Rehabilitation

Appeal for the Max Factor Building, Hollywood History Museum.

DC: We spent considerable time on this at our last meeting. I'll turn it over to Richard to bring us all up to date on what's transpired. I would also like to ask Al to make a brief report on the subcommittee's findings.

RC: Well, Mr. Chair, since our last meeting.

Jeff Samudio: I would like to jump in and state for the record that I'm excusing myself of this as Ellen is my client. I'll step outside, and you guys let me know when you're done.

RC: When you hear the loud round of applause - . Mr. Chair, since our last meeting we did receive a letter from Chief Jimmy Hill, Fire Marshal, the City of Los Angeles. On their position and response to our letter – the board's letter of November first to Chief Hill. They refute or take a position contrary to that that was developed by the subcommittee of the board, regarding the means of egress issues relative to the fire escape, the committee had proposed and that the board had discussed as you had mentioned at the last meeting. With that I think it would be appropriate for Mr. Dryfuss to give a summary.

AD: I was not at the last meeting so I don't know what the board discussed. I did meet with the owner and representatives of the Max Factor building with Joe Garcia and Fred Herman. At that time, the main issues we had to decide and the main issue where we disagreed in our discussion with the fire marshal is whether or not this is a continued use enacted and what does or not does not make the historic building code applicable. It was represented to us with supporting documentation that the building had been used as a museum since 1983. What the fire marshal states is that if that is so it was not with the correct certificate of occupancy, etc., but determined that it had been in use and therefore the SHBC did apply. We then determined that the fire escape in question was visible from the street in front of the building and so modification of the fire escape was undesirable. And from the representation of the owners and the representatives of the owners was also possibility physically impossible. We also determined in addition there was an existing –

another nonconforming exit from that top floor - a spiral staircase from the top floor all the way to bottom floor – nonconforming - but hadn't been mentioned as an additional exit. So there are actually one conforming and two nonconforming exits from that upper floor.

The final issue has to do with the use of that upper floor. The fire marshal's maintaining is that the use that's been described by the appellant is high occupancy assembly use – I think it was restaurant supposedly - or it's going to be fixed – they keep referring to restaurants in their letter. And that made it particularly dangerous situation not having two conforming exits from that floor. The owner and representatives of the building – it became pretty clear to us that the intended use and the likely use was a much lower occupancy.

The determination by the committee was that if an additional exit was created from the first floor at the rear of the building, say in an existing loading dock, that that would allow that circular stair to serve more – as a secondary exit from the rear of the building – and wouldn't require you to pass through the entire first floor to get to the front of building to exit. And that additional exit – let me summarize it. The front exit at the first floor and conforming stairs, the new rear exit at the rear of the building and the nonconforming spiral stairs along with the fire escape would be adequate egress from the building and a safe situation. Obviously, the fire marshal disagrees with us.

DC: Couple of questions if I might. Alan you might know. In looking at the reduced blue prints here, Type 1 building it would indicate, and is it sprinkled - do you know?

AD: I don't remember.

LG??: It is a Type 1 building.

LG??: Solid poured in place concrete.

DC: Okay. Sprinklers, no.

LG??: Basement

DC: Basement only. Okay. So it appears that per the prevailing code, the '98 California Building Code, it's an A3 Occupancy, and thereby the City's fire marshal is saying it needs two legitimate complying exits. And what we actually have is one legitimate exit and two – what I would call marginal exits. One spiral stair and then another through the exterior emergency fire escape. So, I think a lot of our discussion at the last meeting was such that the Historic Code implies that we use some wide latitude in recognizing alternate methods. And I think we had discussed at our last meeting that we as a board felt that the alternate methods would be the use of the spiral staircase and the fire escape and both of the combined to kind of offset the shortage of that one exit. I just kind of open it up to the other board members to discuss this and see if we can put some more items on the table. Now in reading the state fire marshal's response, I think the crux, I keep saying the state fire marshal, I mean the City of LA's fire marshal. It seems that the crux of their concern, I think is that it was apparently used as a museum or an assembly area without benefit of permit and review from me as a building department or fire department from '83 to '92.

???: Can you point out where that is?

DC: I'm reading – it's in the letter from Jimmy Hill, the fire marshal.

DDNE – D. Denne': Can I ask a question for clarification - this is all new to me. Is the building equipped with any type of smoke detection system currently?

DD: No.

DDNE: And is the 4th floor going to be used for drinking or dining, alcohol consumption?

DD: Occasionally, but not on a regular basis. Possibility. It is really just a display space, part museum for exhibits. There may be a special activity with the opening of a special exhibit.

DDNE: Because the California Building Code does call for sprinklers to be installed if it's over 5000 square feet. I don't know how large this area is – if it's going to be used for consumption of alcohol.

LG: The net area on that is about 4200.

DC: Per floor?

LG: Right.

DC: So when we're talking about alcohol – we're talking about an art opening type activity.

DDNE: And funding raising activity for the museum.

DD: Unfortunately the building code doesn't clarify.

(RH)??: I have a question about the neighboring buildings. Are a few of them sprinklered.

DD: Two north of the building and the neighbor to - adjacent street to the right – there is a 15-foot easement walkway alley way between this building and our building. And the building to the left of this building I own also. And that is where the restaurant will be. Not on the 4th floor. But in a separate building and that will be fully sprinklered. Behind the building is an alley. But there is some confusion from Chief Hill as to where the restaurant is located.

DDNE: So the restaurant is not included in this particular building at all.

DD: That is correct. The restaurant is located – if you look at this first photo that you have. This 4- story building is where the museum was since 1983 - and remained open until 1996 when I purchased the building. The 1-story building that's going out to the right of 4-story building - it's a 1-story building – that is where the restaurant will be – it's next door.

DC: And it's going to be sprinklered?

DD: Yes.

DC: Okay.

(RH)??: It's not a part of this project?

LG: No, but it does actually adjourn – in respect to shares openings – there's a fire door between the two.

DD: There are two fire doors. Solid poured in place concrete walls dividing the buildings.

DDNE: Do you know what the rating of the doors are?

DD: They're two hours - each. And they're double fire doors.

(RH)??: Has that building been permitted or is it functioning with a C of O?

DD: The other building, no. None of it was permitted. None of it had the C of O because it was all built and occupied when owned by Max Factor Cosmetics Co prior to the 1940's when C of O's entered into the picture.

(RH)??: Is the one-story building functioning?

DD: No, not yet.

DC: And that's not part of this appeal anyway. This appeal is expressly focused on the third and fourth floor. So we want to focus our discussion on the third and fourth floor and the use of the two non traditional exits in lieu of the one additional required exit.

?: I think we need to make a determination on the two issues. One, does the SHBC apply and it hinges on the continued use.

DC: I think in reading the City's FM correspondence they agree that the SHBC does apply to this building. And the state FM (.....) no the City's FM in this correspondence has listed 5 sections out of the codes that they're focusing on to support their position. One of those five is out of the NFPA life safety code which I would discount that all together, because it does not apply in this case. That takes us now to four items. I'm going to go through them quickly my own opinion. The first item he lists is 8-302.2. a Change of Occupancy provision in the SHBC. I'm going to paraphrase that it says something to the effect that when you change of occupancy you can't create an unreasonable hazard. It does not say that you have to make the building comply with the regular code but it says you cant' create an unreasonable hazard. Again, I'm paraphrasing - so. Then the second one the FM cites is out of 8-502.1 which is a Means of Egress, and he's specifically citing exceptions 3 and 5. Which I throw those out too. I would say look at exception number 2. Because exception number 2 says that basically what we're doing is expressly allowed in the SHBC as far as recognizing exiting fire escapes as one of the required exits. That's all we're doing – we're saying here's where it says it in the code. By a FM looking at exception 3 and 5 it makes a question, well, did you look at number 2? It fits this like a glove. The third item listed is 8-207 at which I think is just a definition of fire hazard. And it basically says that the FM is the authority having jurisdiction for purposes of defining what a fire hazard is. And then the last one is 8-401.2, I don't remember off the top what that was...is just the intent of the fire protection chapter. It says that – talks about maintaining a reasonable degree of fire safety. Of course, that's subjective and may be our opinion of what's reasonable is obviously is different than the City's FM.

The main sticking point for me is the fact that it wasn't permitted in '82. But even discounting that, if the applicant were to come forward today and say I want to convert this space in this historic building to a museum -forget the fact that it was a museum before, I think the sections that this board has recognized would still apply. We really get to that \$20,000 question – probably more like \$2 million question, is what's reasonable? What is a reasonable degree of safety? I can't fault the FM because they have a different expectation – they're trained a little bit differently. But this board has a broad knowledge of the bigger picture – I think. And that is how can we utilize historic buildings in different ways so that they are viable, economic engines for the community, and yet maintain the historic fabric. So looking for addition impute, maybe from other members – if you want to chime in for the record and we can vote.

DH: I agree with what you've just stated. My question is the way it comes back to us is – just what is the FM looking for from us, in that we've already given him. We can reaffirm our previous decision in saying no, you're wrong FM, this is really the interpretation. And hope that will then fly – we certainly don't want it to bounce back again. Is there something more definitely-wise

RC: Dick, the first thing we sent was the findings of committee of the board – nor was it a formal action of the board.

DH: So by ratifying that is a formal action of the board might suffice.

DC: I think the last meeting we did that. This is a formal appeal now. It's all been consultation up to this point, now it's a formal appeal.

RC: When the appellants came to the board in December there had not been a final determination from the Los Angeles City Fire Marshal. There had been some discussions and whatever but not a decision in writing. That was rendered after the letter from the committee of the board went to the City. And that generated the response – basically refuting the position that was raised in our letter to the FM, so there was nothing to appeal until the LA fire marshal gave their position on the matter, which was contained in the letter. Once that was given, there was then something to appeal to the board, so a formal decision could be made at that point.

PS: Have any discussions been made as far as putting in an early warning system such as smoke detectors?

DC: No, that hasn't been part of the discussion up to now. Maybe the applicant would want to respond to that.

DH: Maybe that is why in which I had a question on the FM's letter of just the use of a word – in the second paragraph, he says, "the purpose of the complication was an attempt to informally solve..." and I was wondering about that use of the word "informally solve".

RC: It was a consultation, and an opinion was rendered. A decision was not made, an opinion was rendered on the applicationNot a formal because the board itself did not take an action.

DH: I would like to understand a little more of Fire Marshal Hill's logic. He doesn't necessarily ignore exceptions as he addresses them down in the third to the last paragraph.

I need some help on this in getting into his line of thinking. Perhaps you could tell me what his logic was. But he's basically saying that due to the change in occupancy exception 2 cannot be enforced. What is your take on that?

DC: I think he's putting more emphasis on the change in occupancy 8-302, which says, cut to the chase - very end of that says, "provided the new use or occupancy does not create a fire hazard or other condition detrimental to the safety of occupants or fire fighting personnel. I think he is focusing on that last sentence.

DH: And why would this new occupancy create a such a distinct hazard?

DC: The potential consumption of alcoholic beverages, and the A3 designation – 299 potential occupants on each floor.

AD: Because even though he acknowledges that it has been used, or says – sort of acknowledges that it has been used as a museum, he keeps going back to its original construction and use. The idea of some kind of additional smoke detection or early warning system occurred to us but it didn't appear to be necessary. It might be a way to somewhat alter what we're recommending and try to accommodate the FM. The other issue that strikes me is in the description of the use – the actual use of that floor – is something that we run into occasionally where what the code prescribes in the square footage and interpreting it – as occupancy for that square footage, given that type of occupancy, and what the actual use might be may differ significantly. Our opinion after having talked to the owner and representatives is that there was a decided difference in the – what the actual occupancy would be. I'm not sure if there is way to restrict that occupancy that would be agreeable to the owners that might soften the blow to the FM.

DC: Loring, you had your hand up earlier?

LW: I was looking at the fire escape. I've climb more of these than I ever care in looking at the outside of a building. It looks like from the fourth down to the third to the second are like what I'd call ship's ladders, which are easily negotiable. Then this last picture in the package of picture, it appears that from the second floor down there is a vertical ladder that I would guess you step on and your weight then sends the ladder down – is that the way it works?

DD: Actually you unlatch it – it's on a pulley system that is fully functional. It just goes down.

LW: Okay, it goes down and you don't have to hook it. I guess looking at that, going down - having people who are not accustomed to ladders going down a vertical ladder may not be easy. I'm looking at our code 502.2, which is fire escapes, but it talks like these are new fire escapes and fire escape ladders and it does talk aboutprovide....stairs that reach the ground. This is the new ones. And the existing ones which says that they shall extend to the ground and are easily negotiated. The only thing I can see about this fire escape is that bottom ladder where the climb is easily negotiable. It would be for some people and probably not for others. I've seen the ones with the pulley on the stairs rotate down and those are a lot more easily negotiated. That would be my only reservation about that fire escape.

FT: What you were just mentioning. We did discuss not what easily negotiated but extending to the ground and clarified that our intent was that it did not have to be fixed at the ground to extend but to be able to be extended to the ground by a mechanical.

LW: I think that's right. If you have it down to the ground then you're going to have people going up it. I remember going to inspect a building once and the kids had gotten up so much they just had taken it off. So you started from the second floor and you went down 3 steps so there was a rail, a little chain across between the handrails and there was nothing else.

DC: We've got a lot of fire escapes in Riverside – it's an old town. Quite often we have to have the ladder extensions at the base because of space constraints and also security to keep the kids from going up. So sometimes that is the only way to maintain it is to have it out of reach.

LW: With the spiral staircase inside I feel a little better because at least there is another route.

DC: Certainly the FM's position is well taken as is Loring's. In that is in an emergency situation the exiting time is going to be greatly increased with people trying to negotiate this stairway. But again with the third exit, even though it's not a legitimate exit under the '98 CBC, it is nonetheless a way to egress from that floor to the spiral stairway which would probably provide you a quicker means of egress through the spiral stairway than this would.

??: Unless the fire department gets there and throws a ladder up to that lower level.

PS: There again that's where your early warning would come in – offer some help before anything extreme happened.

(RH)?: It's a question to the owner and your representatives. Have you looked at the implications of a smoke detection system to provide an early warning in case of fire or smoke? Have you looked at those costs?

DD: Yes, I have. There economically – any budget I have. I have to look back at the issue that the LA fire department first reviewed my project in September of '97 before I did any rehabilitation to the Max Factor Building. They came to the agreement that this was a historic building, they knew that the building was a museum. I have documentation here when I have a chance to get up and address you regarding the issues that I would like to bring to the table this mornings. I would go over all that with you. As a result I have spent until April of 2000 meticulously restoring this building to look like it looked in 1935 when it first opened – with the art deco style.

LG: There is an additional – I don't know if the board discussed this at the last meeting but there is the additional wrinkle that the permit for the project was issued after plan check. It was only, if I remember right, when you went to get your certificate of occupancy that they decided they had missed it -

AD: It was one of the things that compelled us to appeal like we needed to give relief when we reviewed this in committee.

LG: Apparently it went through plan check with no problem and the fire marshal checked off on it at that time with no problem.

??: Well at this point the building department is ready to sign off on the project. They're just waiting for this body to make a decision that they can stand behind.

DC: Can you tell me when it was the fire marshal first change their mind.

DD: Final sign off on the building was April 2000, the fire marshal entered into it at the end of May 2000.

(RH)?: Another question. Occupant load of the third or fourth floor – what do you anticipate as your maximum occupant load during the drinking, openings, where you're serving alcoholic beverage – most people you anticipate.

DD: Maximum would be 299.

(RH)?: That's right at the threshold between A2.1 and A3.

(RH)?: Does the building have a security system?

DD: Yes, it does.

(RH)?: Do you realize that that's the bulk of the cost of the fire detection system is the monitoring and the wiring?

DD: Bulk of the cost – I appreciate what you're saying, but the bulk of the cost now besides purchasing the additional equipment will be more down time. I have been waiting for the fire department to be able to respond – and they responded in January of this year. We have been waiting since May of last year for a response from them. So we have this down time. And now all the tearing out of the walls in the building – they cannot be in the ceilings because the ceilings are solid poured in place concrete with fire retardant material sprayed on them. So everything has to be hidden behind partitions and built out again, plus I have to touch historic elements in the building to get that detection system in. This should have been addressed in September of 1997. It was —the building was approved as is in September of '97 because of the bulk of documentation provided that this was and has been a museum and that my purchase of the building was a direct response to the City of Los Angeles RFP to find a purchaser of this building that would accomplish two things: One, bring back an economic life back into this building by using the building as a museum as continued usage, and two, restore the building back to its historic designated style that everybody would appreciate in the art deco style. I accomplished that. I purchased this building based on the RFP. I felt I was doing wonderful things for the community by giving back to the community – having the building reopen again with a museum in it. They have enjoyed a museum in there for many years and restoring the building back to the way it should have looked. So to answer you, no, it is not economically feasible at this time.

DC: I just asked our state fire marshal representative I've used early detection as a mitigating factor and a number of change of uses in lieu of fire sprinkling which is the preferred method. As far as historic buildings are concerned wireless detectors are now available – you don't need to really go into the building to pull any wires. So it's something you might give consideration to. I fully appreciate the fact that you have come a great

distance with good faith and due diligence based on a great deal of approval and paper trial perhaps by various agencies. However, I can see where we are relying upon two marginal exits. One of which is actually crossing an assumed property line between two –

DD: There is no property line –

DC: An assumed property line between two types of construction, where you have type one on one side and as you step out the window you are over an above a differing type of construction – according to your documents.

??: Can you give me some idea of cost on the wireless – I'm not familiar with the wireless detection system, cost, and time for installation?

PS: Be a guess – we'd have to look at the square footage and where to place the –

(RH)?: I was quoted \$100 per unit – for the detection equipment.

?: Do you have idea, Bill, what the spacing on those units would be?

BB: I don't know.

PS: As far as down time –

DC: Is it a self-contained unit – you just install it and it has its own battery and alarm system?

(RH)?: Correct. It's a high tech residential smoke detector.

DC: Right, there's a receiver and monitoring system.

DD: I appreciate all of this. My concern is that one, I don't have a residential building, and two, the building is under the minimum height requirement for installation of fire sprinklers.

?: We aren't talking –

DD: You're saying in lieu of fire sprinklers –

DC: What you don't understand is the board often recommends fire sprinklers in situations where they're not required in mitigating factor for other problems – so that's why that's coming up as an issue. They solve a lot of problems even in buildings where they're not required. In this one, we're just acknowledging that that would be a hardship and very difficult, where it's possible that this simple installation of the wireless – a number of wireless detectors could be affordable, easily accomplished in a short period of time. And at least give us something to go back to the fire marshal ...say...we have knowledge - the agreement to do additional exit at the rear but also early detection system and then just stand firm on the use of the fire escape and spiral stair.

DD: May I ask do you know how many square feet that wireless covers?

PS: You'd have to talk to a manufacturer – they're all a little bit different.

DC: What I'm a little concerned about is not giving the owners of the building an additional requirement to meet that will take more time. That seems to be what the biggest issue right now. I'm almost inclined to ask the owners to look into that and to report back to us and not include that as part of our recommendation to the fire marshal.

??: Not have it as a condition.

(RH)?: But if they're easily installed, so that there is no time factor then it wouldn't be a problem.

DC: Like Roy, I'm a building official and I often have required the smoke detection as a mitigating factor. But I've never heard of the wireless, and I'm not too sure I would have too much trust in systems that you got to maintain batteries.

(RH)?: Unless they're maintained by the fire alarm company – it's a service contract.

DC: Let me throw something else out. In similar buildings... It seems as though the fire marshal's one of the primary concerns is that high occupant load during those special events which probably will be rather infrequently, I assume. The primary use of the museum where you're going to have maybe 20 people per floor most of the time if that. Have you considered or has there been any discussion about when you have these special events hiring what we refer to as a "fire watch" person to be in that building, during that event, monitoring all the floors, and if there is to be some fire emergency, then that start an early evacuation system that way. Have you given any thought to that?

DD: Yes, we have. We actually offered that in one of our numerous negotiation meetings with LAFPD and they refused that.

DC: Most fire departments will because that puts a burden on the owner and that makes them become the enforcer - the policeman to make sure it's done. But I would like it - if we move forward, I would like to see that incorporated into our requirement that pass the burden along to the owner that when they do have these events that they will have – will employ a "fire watch" type of a person to monitor that building during that event. I think that would go a long way if in fact the hard wire or remote wired systems are not feasible.

(RH)?: Dan, perhaps a condition where this type of security fire watch was required up until such a point that they made a transition to smoke detection system that they find suitable.

DC: The economics may balance out hiring a person for X number of hours every time versus the hard costs of installing a system. What do you think about that – is that a -

DD: I would not have a problem. In fact, we offered it before that we would hire a person to monitor for security/fire watch purposes. I can certainly look into the – about the early warning fire/smoke detector situation. I don't know what the cost will be, and I don't know if it will be acceptable because it will not be hard wired.

RC: It only has to be acceptable to us.

DD: I will look into it

RC: If it's a system that meets the standard for those system then that's the only test you have to pass.

DD: How would I go and demolish the historic integrity of this building to hard wire again.

Everyone: We don't want you to do this..

RC: Probably one of the reasons the remote systems were developed.

(RH)?: They don't like installers getting up there on scaffolds and running conduit – it's almost an OSHA thing for the installers – they developed it for their own use.

?: I have the impression that the fire marshal down there assumes that only the top floor is going to be utilized for openings where you'd be selling some type of alcohol. Having been a visitor to a lot of openings, you have people going all the way from the first floor to the top floor and back and forth. If the bar is located at the first or second floor the majority will certainly be there rather than up at the top floor. Doesn't seem to me that you'd have that heavy concentration with the other floors all being empty. Can you explain that action taking place?

DD: I think that would be very rare in doing museum work. It's not a gallery, it's a museum. We tend to be certified with the American Association of Museums. You really wouldn't want people bumping around with food or any type of drink, alcohol or otherwise. So there may be the rare occasion with people might be permitted to wander through with a glass of wine, but by and large our intention has always been to confine those events to the upper floor where all food and all drink and all people would be confined. The event might be, come at 6 o'clock to see the new exhibit, and from 6 to 8 they can wander through floors 1, 2, & 3, and then at 8 o'clock the event is now self contained only on the 4th floor with food, drink, people, music. And the assemblies will not always involve food and alcoholic drink. It may be a seminar of some kind, a meeting, lecture, and some other kind of educational events.

DD: Most of the time this space will be used for exhibit and display. I believe that somewhere along the line people got confused as to what exactly museum activities are. The confusion that there was going to be a restaurant on the 4th floor, which is not the case, helped cause all these little glitches in the overall picture.

RC: I would like to interject one thing – there was a museum in ? park that wanted to expand and have a large occupant load on the second floor with only one exit. And the solution there was – it was found to be acceptable to the fire authority - was to have one or two individuals actually I believe they were from the fire department, when the events took place that had the large occupant load to actually be stationed there to provide assistance and guidance should anything go awry. That's not an uncommon strategy.

DC: We've done that in Riverside with the exception that we don't necessarily require an employee of the fire department just a security company.

AD: I would to make a motion that the board reaffirm the decision that was made by the subcommittee with the addition of the language on the end response to the section by section citations in the Fire Marshal's letter, and with the additional condition that the

owner's during the large assemblies will provide a fire watch or an early detection system. We could specify that a battery operated wireless system is acceptable to us.

DC: And further that I would define a big event as an event with over one hundred participants.

DD: Could I ask a fire watch - would that be with what type of personnel – would we be able to hire someone from a private company or from the fire department.... What type of choice.

DC: You could hire one from a private company. Many of the security companies offer such services. Would not necessarily have to be an employee of the fire department. Any further comments?

Okay Alan has a motion.

(RH)?: I'll second.

DC: There's a second. Discussion?

?: One quick question, on the drawings here it indicates there's a large historic elevator in the rear corner. Is that functional? Does it have automatic controls? Or does it need somebody working the little crank?

DD: It's automatic.

DC: Any further discussion on the motion? And do we have that on tape so that we can

RC: If we don't, I'll be on the phone...but I'm sure we do.

DC: Okay. I'm not going to repeat the motion – everyone remembers it I'm sure. All those in favor say EYE –

All: EYE

DC: Any opposed. Unanimous.

RC: Could I just request a clarification not on the motion but based on the previous letter to the FM. The spiral stair is recognized as a -one of the three exit means for the building. I don't remember without reading the letter if we specified that it would be identified as an exit so people would realize that.

AD: We do mention that.

RC: And signed as such....

AD: Yes. And I don't know whether the fire department has any requirements about ---they did not inform me that it be posted as such – as an emergency exit.

DH: Is the spiral staircase – typically people use that, is that right?

DD: Oh, yes. It's very secure, very solid.

DC: Any other comments before we move on?

DD: I have some questions about enforcement. Can we comfortably - reasonably move forward and put in our door, our signs, go through all this with the reasonable expectation that we will be issued C of O or are we potentially looking at another refusal from Chief Hill and another hearing somewhere down the line.

DC: My opinion and mine as the building official is you need the fire department to compitulate to our rulings. Don't try to side step the. If they don't compitualte than I'm sure that we going to have to have further discussions. Because it's my opinion that we are the jurisdiction – the authority having jurisdiction over this item, and just dispense with the appeal. And that's the end of it. But the fire department still has the authority of issuing C of O's.

RC: Nor does the building department.

DC: Well both of them work in harmony on that issue.

RC: Well the building department may accept – well they've already issued their C of O's.

DC: I think it's wise for us to have the fire department compitulate to our ruling. I think that would be wise. If they don't, we'll have to set up a meeting with the FM and

RC: Well, once we've taken a formal action...once we've made this determination, we really can't do anything else.

DC: Civil matter...

RC: We can try to (influence) them....

DC: Going to court would be next step...

RC: And I don't think they want to do that so. I do believe though with the fire watch and the potential for the smoke detection we'll probably soften their position.

DD: I appreciate your help because it's been a long journey and it has not been easy keeping this 40,000 sq. building open all these months without the ability to open it to the public. I'm just hoping our journey will see the light at the end of the tunnel and hopefully I can make sure the switch stays on.

DC: Thank you for all of your good work.



City of Santa Barbara
Fire Department

Memorandum

DATE: 1/26/16

TO: Building & Fire Code Appeals Board

FROM: Joe Poiré, Fire Marshal

SUBJECT: Staff Report: Appeal of the Fire Sprinkler Requirement, Ca'Dario Pizzeria Change of Use to Assembly Occupancy

On December 16, 2015 the Fire Department received a request for a variance from the requirement to install fire sprinklers in the structure at 20-37 E Victoria Street. The building currently houses Ca'Dario Ristorante, an assembly, at #35 and #37, a tattoo parlor at #33, the Ca'Dario Gallery at #31 and Ca'Dario Pizzeria at #29. The plan calls for combining the art gallery and pizzeria occupancies into a single occupancy to serve the Pizzeria.

History

The original configuration of the suites in the building was as five separate spaces of roughly the same size, suitable for small, low occupant load businesses. Under the current California Building Code they would have been considered "B" (business) or "M" (Mercantile) occupancies, each with an occupant load of less than 49 persons. Several years ago Ca'Dario Ristorante expanded by combining spaces 37 and 35, creating an "Assembly" occupancy with an occupant load 62 (See attachment #1). Allowances were made at the time for distance separation of the two required exits (1/2 the diagonal of the area served), allowing the use of the Victoria Street exit from #35. Part of the reason for the allowance was the difficulty in configuring an exitway that traveled through the rear alley. At the time that Ca'Dario expanded there was no requirement to sprinkle the building based on the work they proposed. The current project proposes to combine the Pizzeria and Gallery in the same fashion, creating an assembly on the opposite side of the building. There are several code implications involved, primarily centered on exiting and sprinklers.

Sprinklers:

The California Fire Code is adopted and amended locally under Santa Barbara Municipal Code 8.04. Section 903.2.20.5 states that fire sprinklers are required when "...any change of occupancy in an existing building where the occupancy changes to a

higher hazard classification." As previously discussed, the occupancy classification: B to A, is not in dispute. Assembly occupancies are more hazardous due to the number of people allowed, particularly when exiting is marginal or deficient. The two occupancies that previously existed as small operations of less than 49 people are now proposed to combine into a larger restaurant serving pizza and alcohol. Staff position is that this is a substantial change in the hazard and that sprinklers were appropriately invoked under the code.

Exits:

Assembly occupancies are required to have a minimum of two qualifying exits under both the Building Code and Fire Code. Exits must be separated by at least ½ the diagonal of the area served or 1/3 the distance if sprinklers are provided. Here, the primary exits are within one foot of each other and both open inward. The doorway at the rear of the former Gallery is not provided with panic hardware, does not provide an unobstructed exit path to a public way and in fact is interrupted by yet another non qualifying doorway from the alley to the street. This is the same alley that was problematic for rear exiting from Ca'Dario. In addition to the doorway, the exit obstructions in the alley are numerous, not the least of which are the trash bins and other storage. Use of the rear exiting system in an emergency could be extremely hazardous without substantial changes. I have reattached their floor plan with annotations, attached as #2.

California Historical Building Code (CHBC)

The appellant argues CHBC §8-410.1, which says:

Every qualified historical building or property which cannot be made to conform to the construction requirements specified in the regular code for the occupancy or use, and which constitutes a distinct fire hazard (for definition of "distinct hazard," see Chapter 8-2), shall be deemed to be in compliance if provided with an automatic sprinkler system or a life-safety system or other technologies as approved by the enforcing agency. ("Automatic" is defined in the regular code. Sprinkler System is defined in this section.)

DISTINCT HAZARD. Any clear and evident condition that exists as an immediate danger to the safety of the occupants or public right of way. Conditions that do not meet the current regular codes and ordinances do not, of themselves, constitute a distinct hazard. Section 8-104.3, SHBC appeals, remains applicable.

The appellant further relies on CHBC 8.302.2:

8-302.2 Change in occupancy. The use or character of the occupancy of a qualified historical building or property may be changed from or returned to its historical use or character, provided the qualified historical building or property conforms to the requirements applicable to the new use or character of occupancy as set

forth in the CHBC. Such change in occupancy shall not mandate conformance with new construction requirements as set forth in regular code.

Public Safety

Staff believes that the above sections support our conclusion of sprinklers, rather than refute it. First, the historical use of the building was not as an assembly occupancy. The applicant is proposing with this project that the *primary* use of the property will now be assembly, with the only remaining "B" occupancy being the small tattoo shop in between Ca'Dario's restaurants. Combined with a lack of exiting and dramatically increased occupant load, we believe that the creation of another assembly in this structure presents a distinct hazard to life safety. As the code states, a simple change in occupancy, while it may not necessarily invoke standard code requirements, is not at issue here. It is the distinct hazard created by that change.

Section 8-410.1 confirms that analysis when it differentiates between *construction requirements* and sprinklers. As the section says, even distinct fire hazards may be mitigated, to a degree, *if provided with an automatic sprinkler system* or other life safety system *approved by the enforcing agency* (emphasis mine). The applicant has proposed an automatic fire alarm system which, for a restaurant, is not approvable in this jurisdiction, absent a mixed use building.

Sprinklers May not be Used to Satisfy Number of Exits

CHBC 8-410.3 Automatic sprinkler systems shall not be used to substitute for or act as an alternate to the required number of exits from any facility. (See Chapter 8-5 for exiting requirements.)

Here, two qualifying exits are required. Even if sprinklers are provided, they must be separated by 1/3 the diagonal of the area served. The two main exits collide with each other and with the public right of way, a violation of the code and a substantial hazard in an emergency. The applicant has not claimed the rear door as an exit, nor have they shown how the historic door from the alley to Anacapa Street could be made to qualify, or how the exit path obstruction issue can be solved. The rear door is not an exit by the code and should not be represented as one until those tasks are accomplished. Again, even sprinklers don't substitute for number of exits under the CHBC.

Conclusion:

The applicant claims that sprinklers are obtrusive and would be detrimental to the look of the interior. We have been a part of providing sprinkler systems to many historical buildings in the City of Santa Barbara, not the least of which is the Granada Theater. Sprinklers concealed in the ornate Founder's Room ceiling are almost not visible and certainly don't detract from the building. Smoke detection is obtrusive by nature and as pointed out earlier: inappropriate for restaurants. The applicant's proposal creates a distinct hazard and staff feels that sprinklers are a necessary life safety feature under

these circumstances. The Historical Code, in fact, specifically allows the local officials to deviate from the "regular code" to a degree, *when sprinklers are present*, an acknowledgment of their effectiveness. If technical interpretations of that language are needed, the applicant has the option to appeal to the State Historical Building Code Board of Appeals.

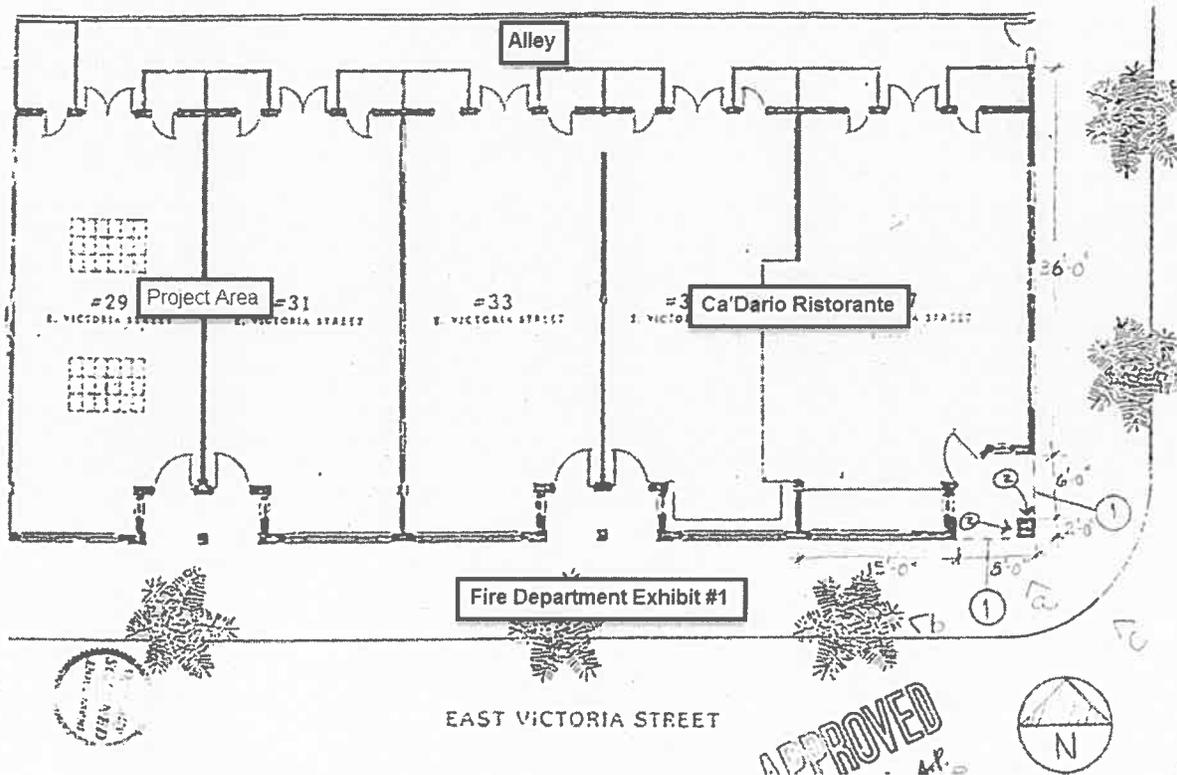
Based on the information provided, staff recommends denial of this appeal.

Respectfully Submitted,



Joseph J. Poiré, Fire Marshal
Santa Barbara City Fire Department
Fire Prevention Bureau
121 W. Carrillo Street
Santa Barbara, Ca. 93101
(805) 564-5702
Cell (805) 331 5639
Fax (805) 564 5715
ipoire@santabarbaraca.gov

Fire Department Attachment #1



Attachment 2: Fire Department Annotations of the Applicant Floor Plan

