

**APPELLANT'S APPENDIX OF EVIDENCE
FOR JULY 7, 2016, HEARING
VOLUME I**

Required

Proposed





City of Santa Barbara
Building and Safety Division

MAY 05 2016

RECEIVED

**CITY OF SANTA BARBARA
BUILDING AND FIRE CODE BOARD OF APPEALS
AGENDA**

AGENDA SCHEDULE IS SUBJECT TO CHANGE AS CANCELLATIONS OCCUR
STAFF WILL NOTIFY APPLICANTS OF TIME CHANGES

Thursday, May 05, 2016 David Gebhard Public Meeting Room: 630 Garden Street 2:30 P.M.

BOARD MEMBERS:

- PATRICK C. CARROLL, *Chair*
- BONNIE ELLIOTT
- JAMES D. LANGHORNE
- KEN MCLELLAN
- JULIETTE SPONSEL
- VINCENT E. WOOD
- MARSH ZILES
- VACANT

STAFF: ANDREW STUFFLER, Chief Building Official
 JOE POIRE, Fire Prevention Division Chief
 LETICIA I. MIGUEL, Commission Secretary

Website: www.SantaBarbaraCA.gov

NOTICES:

Copies of documents relating to agenda items are available for review in the City Community Development Department at 630 Garden Street, and agendas and reports are posted online at the web address at the top of this agenda. Please note that online Staff Reports may not include some exhibits. Materials related to an item on this agenda submitted to the Building and Fire Code Board of Appeals after distribution of the agenda packet are available for public inspection in the City Community Development Department at 630 Garden Street, during normal business hours.

AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to gain access to, comment at, or participate in this meeting, please contact the Building and Fire Code Board of Appeals Commission Secretary, Leticia I. Miguel in the Community Development Department, **(805) 564-5470, extension 7543**. If possible, notification at least 48 hours prior to the meeting will usually 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.

I. CALL TO ORDER:**II. ROLL CALL:****III. GENERAL BUSINESS:**

- A. Public Comment: *The Public time is set aside in order to allow testimony on items **not being heard** on today's agenda. Due to time constraints, each person may be limited to two (2) minutes.*
- B. Approval of the Minutes for the Building and Fire Board of Appeals meetings of **February 8, 2016 and April 7, 2016.**
- C. Announcements, requests for changes in agenda item order, continuances and withdrawals.

IV. SUBJECT ITEMS:

- 1. **3732 State Street - Appeal of the Building Official's Code Alternate approval (Board Decision)**
- 2. **31 El Cielito Road – Appeal of the Building Official's decision to require pool fence or alarm installation (Board Decision)**

V. ADJOURNMENT:

APPELLANT'S EXHIBIT 1

City of Santa Barbara
Building and Safety Division

APR 07 2016



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

**REQUEST FOR
APPEALS BOARD HEARING**

RECEIVED

Subject Property Address 3732 State St. Date April 7, 2016
APN 053-300-023
Owner's Name KW Fund V-Sandman, LLC
Owner's Address c/o Brian Cearnal, 521 State St. (Phone) (805) 963-8077
Owner's Email Address bcearnal@cearnal.com

Decision Being Appealed

A brief statement specifying order or action protested:
Accessible Santa Barbara appeals from the decision of the building official to grant, on this date, April 7, 2016, application BLD2016-00684 for a code alternate. Please see attached.

- 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:
This decision is not the proper subject of a "ratification" appeal pursuant to the Cal. Health & Safety Code. Therefore, Accessible Santa Barbara appeals directly.
This decision is not warranted under the applicable codes and exceeds the scope of a waiver to accessibility which may be granted by the building official. Further explanation to follow, but please schedule hearing date. 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
William Rehling, Accessible Santa Barbara
P.O. Box 22013, Santa Barbara CA 93121-2013

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

Contact:
accessiblesb@gmail.com
(805) 880-4724

City of SANTA BARBARA

(<http://www.santabarbaraca.gov/default.asp>)

Case Status Results - Details

DISCLAIMER

Every reasonable effort has been made to ensure the accuracy of the information provided; nevertheless, some information may not be accurate. Confirmation is recommended as there may be errors in the database.

Status for Case BLD2016-00684

[Back](#)

Address: 3732 STATE ST

Case Number: BLD2016-00684

Case Type: Building Permit

Description: Request to allow the installation of alternate method of compliance for the required truncated dome installation per the 2015 CBC, Section 1116.5A.

Application Date: 3/29/2016

Status: MA

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	<u>Date Completed</u> A (status.asp?Case=BLD2016-00684&Direction=DESC#SortedByIndicatorTable)
Application Received	4/7/2016
Initial Review - Building	4/7/2016
Code Mod Approved	4/7/2016

[Case Status Form \(default.asp\)](#)

[Back](#)

[Top of Page](#)

This page is updated dynamically. The "Last Updated" date below reflects the last time the code for this page was modified.

Last Updated: Apr 2, 2014

APPELLANT'S EXHIBIT 2



City of Santa Barbara
Building & Safety Division
**CODE ALTERNATE CONSTRUCTION
or MATERIAL PROPOSAL**

Community Development
Department
630 Garden Street
805-564-5485

[A] 104.11 2013 California Building Code – The provisions of this code are not intended to prevent the installation of any material or prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building 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.

Project Address: 3714-3744 STATE ST New Case # BLD2015-~~0285~~ 6-00684

Check One: Residential Single Family Residential Multi-family Commercial Mixed Use

Person Submitting Request: John J. Schuck Phone Number: 805-680-8989

Property Owner: KW FUNDY - SANDMAN, LLC

Briefly describe the code requirement, including all applicable code section(s), that you wish to provide an alternate for: the July 1, 2015 mid-cycle Amendment 1116.5A
REQUIRING 3' OF TRUNCATED DOMES SEPARATING A DRIVE
AISLE FROM WALKPATH/SIDEWALK

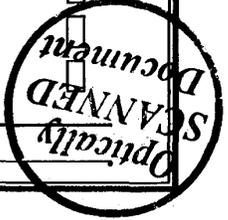
Briefly describe the Code Alternate which is being requested. Include the reason(s) for being unable to comply with the code requirements and provide any supporting documentation that may aide in the decision making process. Attach additional documents if necessary: THE HEAD BUILDING OFFICIAL,
GEORGE ESTRELLA, OK'D THE USE OF COMBINING A DRIVE AISLE W/
WALK WAY, IF SEPARATE MATERIALS ARE USED, INCLUDING A 1' PEBBLE
STRIP. THE BRAILLE INSTITUTE SUPPORTED WHAT WE PROPOSED.

THE ENTIRE PROJECT WAS DESIGNED AND APPROVED BASED ON THAT DECISION.
AND, OUR FIRST BUILDING PERMIT WAS APPLIED FOR 6 WEEKS BEFORE THE CODE
Applicant: JOHN J. SCHUCK, OWNER, FRANCISCAN DEVELOPMENTS CHANGE

Signature: [Signature] Date: 3/29/16

If a Code Alternative is granted, this completed form MUST be reproduced on the plans before the permit is issued.

THIS SPACE FOR OFFICE USE ONLY		Approved	Denied
Fire Department review by: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
Building & Safety review by: <u>[Signature]</u>	Date: <u>3/29/16</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Zoning/Planning review by: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
Public Works review by: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
Comments: _____			
FEES (A min. 1/2 hr. plan check fee is required at submittal. Additional fees may be required): \$ _____			





Empowering visually impaired people to live fulfilling lives

Michael R. Lazarovits
EXECUTIVE DIRECTOR
Santa Barbara

December 20, 2013

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Richard N. Weinreb, M.D.

Cearnal Andrulatis Architect
& Interior Design
Mr. Brain Cearnal
521 1/2 State Street
Santa Barbara, CA 93101

Dear Mr. Cearnal

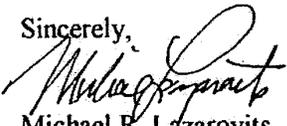
On Wednesday, December 11, 2013, Orientation and Mobility Specialist, Kathleen Ely, and Braille Institute Staff member, Greg Benavidez, traveled to the Bella Riviera location to assess the walkways and driveways. Their primary purpose was to evaluate how safe and accessible these were for those who are blind and visually impaired. Below is their evaluation.

The pebble borders were easy to detect with a cane and ran consistently throughout the property to differentiate the walkways from the driveways. We both felt that it was an architecturally pleasing way to alert both sighted and visually impaired pedestrians. For those who are visually impaired, this is preferable to the truncated domes that are placed for the same purpose.

Kathleen Ely is s credentialed Orientation and Mobility Specialists through San Francisco State University. Orientation and Mobility Specialists provide instruction in basic skills and protective techniques, cane travel, visual efficiency training, intersection analysis and safe street crossings and use of public transportation.

Greg Benavidez has been the Access Technology Specialist at Braille Institute Santa Barbara for almost 9 years. He lost his vision 22 years ago due to retinitis pigmentosa.

Let me know if we can provide any additional information

Sincerely,

Michael R. Lazarovits
Executive Director



3/23/2016

Fwd: BELLA RIVIERA ANALYSIS OF "PEBBLE STRIP"

521 1/2 STATE STREET
SANTA BARBARA, CA 93101
P: 805.963.8077 x211
F: 805.963.0684

ja@cearnal.com
www.cearnal.com

Please consider the environment before printing this e-mail

On Jan 6, 2014, at 2:37 PM, "Estrella, George" <GEstrella@SantaBarbaraCA.gov> wrote:

Joe,

Thanks, that will do it and I will approve it!

Although I have not seen the hard copy.....but this is my first day back at the office. It must be around here somewhere.

George A. Estrella
Chief Building Official
City of Santa Barbara
(805) 564-5553

Please note: Due to a compressed 9/80 work schedule, most city offices are closed every other Friday. To view the city calendar go to http://www.santabarbaraca.gov/Government/City_Calendar

From: Joe Andrulaitis [<mailto:ja@cearnal.com>]
Sent: Thursday, January 02, 2014 8:32 AM
To: Estrella, George
Cc: Brian Cearnal; Short, Chris; Cassidy, Lonnie J; Greg Parker; Ken Marshall
Subject: Re: BELLA RIVIERA ANALYSIS OF "PEBBLE STRIP"

George,

See attached comments from the Braille Institute on letterhead. Thanks

JOE ANDRULAITIS, AIA, LEED AP BD+C
CEARNAL ANDRULAITIS LLP
521 1/2 STATE STREET
SANTA BARBARA, CA 93101
P: 805.963.8077 x211
F: 805.963.0684

ja@cearnal.com
www.cearnal.com

Please consider the environment before printing this e-mail



3/23/2016

Fwd: BELLA RIVIERA ANALYSIS OF "PEBBLE STRIP"

On Dec 12, 2013, at 2:16 PM, "Estrella, George" <GEstrella@SantaBarbaraCA.gov> wrote:

Brian,

That sounds great but please have this acknowledgement on Braille Institute letterhead as way of being more official, which can be included in the email. Once we receive this we will sign off as being in compliance and a very nice picture, which we can also use as documentation.

Thanks,

George A. Estrella
Chief Building Official
City of Santa Barbara
(805) 564-5553

Please note: Due to a compressed 9/80 work schedule, most city offices are closed every other Friday. To view the city calendar go to http://www.santabarbaraca.gov/Government/City_Calendar

From: Brian Cearnal [<mailto:bc@cearnal.com>]
Sent: Thursday, December 12, 2013 12:37 PM
To: Estrella, George
Cc: Short, Chris; Cassidy, Lonnie J; Joseph Andrulaitis; Greg Parker
Subject: BELLA RIVIERA ANALYSIS OF "PEBBLE STRIP"

George,

I met yesterday with Braille Institute staff (Kathleen Ely & Greg_____ *don't have his last name*) up at Bella Riviera.

They loved the Pebble Strip! Thought it worked better than truncated domes because of how it felt with the cane.

Kathleen indicated she will send an email confirming their observations for our records.

BC

<image001.jpg>
Brian Cearnal, AIA, LEED AP
Cearnal Andrulaitis, LLP
Architecture & Interior Design
521 1/2 State St. Santa Barbara, CA 93101





WILLIAM HEZMALHALCH
ARCHITECTS INC.

March 29, 2016

CITY OF SANTA BARBARA
735 Anacapa Street
Santa Barbara, CA 93101

Comments supplied by
CHRIS HANSEN, CCASP CONSULTANT

Subject: **SANDMAN - PERMIT APPLICATION #BLD2015-02851**
Project Address: 3732 State Street, Santa Barbara, CA 93105
WHA Project #2015094
DELTA 1 - Plan Check Re-Submittal #1 to Construction Documents dated 03/29/16

The following changes/revisions to the Construction Document set dated 03/29/16 have been addressed and identified on the Construction Documents as Delta No. 1 dated 03/29/16.

Initial Review - Building

<u>ITEM #:</u>	<u>SHEET #:</u>	<u>COMMENT:</u>
16.2	A1.10	<ul style="list-style-type: none"> Section 1116A.5 came into effect on July 1, 2015. As the first permit for this project was submitted 5/20/15 this section requiring detectable warnings between a pedestrian path and a vehicular way does not apply.
17-1110A.4	A1.10	<ul style="list-style-type: none"> No part of the exterior accessible route is longer than 200' without providing a "T" shaped turning space complying with 1138A.1.3.1.
18 -1116A.5	A1.10	<ul style="list-style-type: none"> Section 1116A.5 came into effect on July 1, 2015. As the first permit for this project was submitted 5/20/15 this section requiring detectable warnings between a pedestrian path and a vehicular way does not apply.
19	A1.10	<ul style="list-style-type: none"> Section 1116A.5 came into effect on July 1, 2015. As the first permit for this project was submitted 5/20/15 this section requiring detectable warnings between a pedestrian path and a vehicular way does not apply.
22.7	A1.10/A1.00	<ul style="list-style-type: none"> This statement is not true as the 9'+5' space is for the standard parking space which will remain the same. The 12' + 5' is for a can space and will still be allowed to be 9'+8' in the next code cycle.



3/29/2016

Fwd: Solution To Road Issue

Begin forwarded message:

Date: March 23, 2016 at 11:50:41 AM PDT
From: jschuckusc@aol.com
To: bc@cearnal.com
Subject: Solution To Road Issue

Hi Brian,

I have hired Chris Hansen, who formerly worked in the City's building department, to be my CASp consultant thru the permitting process. I discussed the road situation with him and told him that you are working directly with Andrew toward a resolution. (By the way, Chris say "hi"!!).

I believe we have come up with something that Andrew can hang his hat on that will allow him to disregard the July 1, 2015 mid-cycle Amendment 1116.5A, which requires truncated dome separations between sidewalks and roadways. Our very 1st project building permit that we applied for was demolition and done on May 20, 2015. Our permit was issued August 31, 2015. In Chris' opinion, the application of our building/demo permit precedes the change in code, therefore the 1116A.5 amendment goes away. This should be sufficient information for Andrew to make his case that we initiated our work prior to the change and therefore can proceed as designed.

Please communicate this to Andrew.

Let me know how it goes.

John



3/28/2016

Fwd: Demo Plan

From: John Schuck <john@frandevinc.com>
To: jschuckusc <jschuckusc@aol.com>
Subject: Fwd: Demo Plan
Date: Mon, Mar 28, 2016 12:33 pm

Sent from my iPhone

Begin forwarded message:

From: Michael Ugar <michael@frandevinc.com>
Date: March 25, 2016 at 2:17:12 PM PDT
To: John Schuck <john@frandevinc.com>
Subject: FW: Demo Plan

FYI

Michael Ugar | VP Operations | FRANCISCAN DEVELOPMENTS, INC

michael@frandevinc.com | O: 805.845.4428 | M: 949.302.8741
Office: 1300 Santa Barbara St., Suite B, Santa Barbara, CA 93101
Sandman Inn: 3714 State St., Santa Barbara, CA 93105

From: Autumn Malanca [<mailto:amalanca@flowersassoc.com>]
Sent: Wednesday, March 23, 2016 11:27 AM
To: Michael Ugar <michael@frandevinc.com>
Subject: Demo Plan

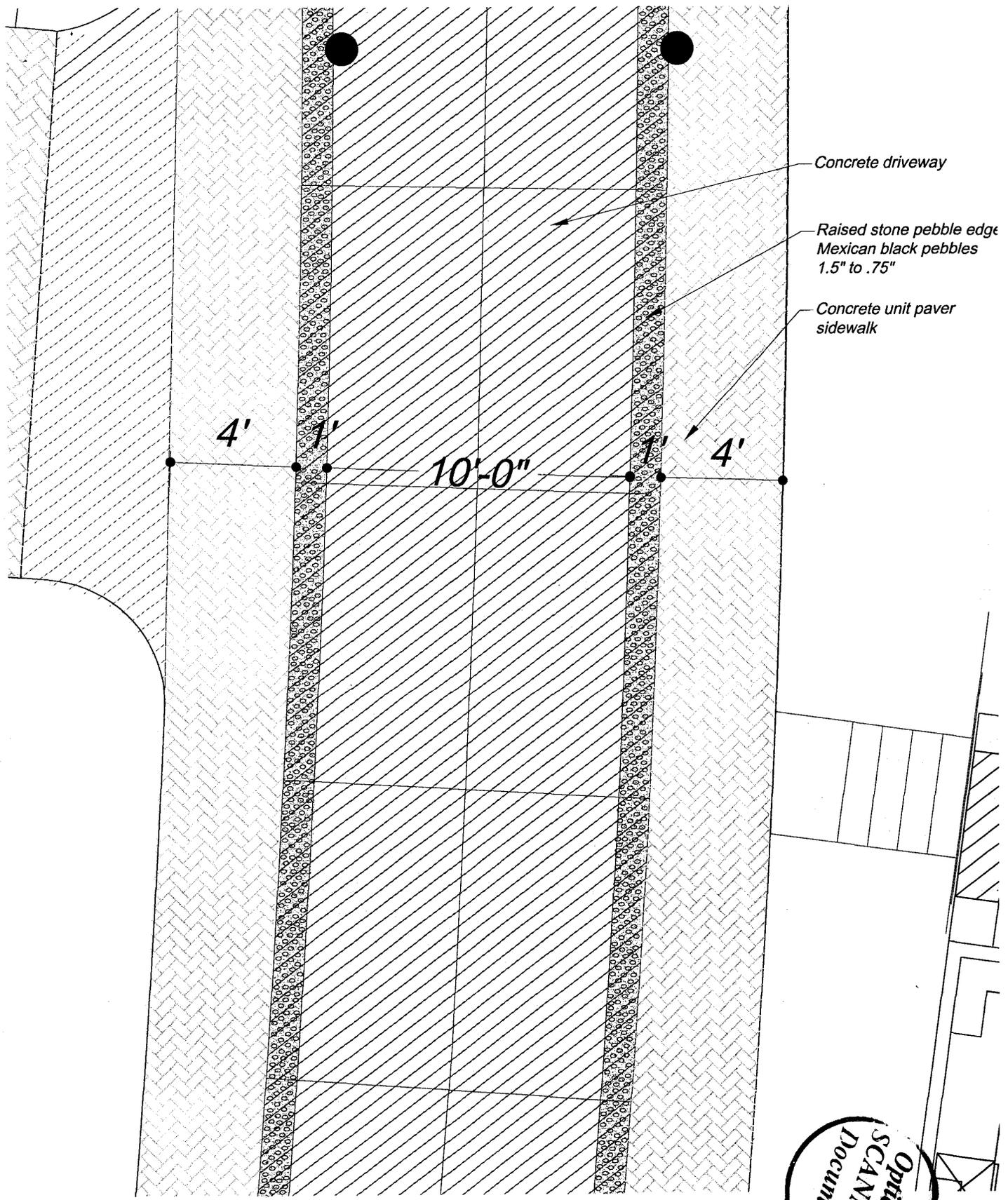
To clarify, there was a "Demolition" plan sheet (D-1) included in our November 2014 Grading & Drainage Onsite Plan set submittal. However, we did not submit a formal Demolition Plan Set to the City Building Dept. until May 20, 2015.

Autumn Malanca
Project Manager/Water Resources Specialist

Flowers & Associates, Inc.
201 North Calle Cesar Chavez, Suite 100
Santa Barbara, CA 93103
Phone (805)966-2224

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TYPICAL PAVING / SANDMAN

1/4" = 1'-0"

APPELLANT'S EXHIBIT 3



City of Santa Barbara
Community Development

Memorandum

DATE: April 19, 2016

TO: Building & Fire Code Appeals Board

FROM: Andrew Stuffer, Chief Building Official *ALS*

SUBJECT: 3732 State Street, Santa Barbara, CA – Code Alternate Approval

On March 29, 2016 our office approved a Code Alternate in accordance with the 2013 California Building Code, Section 104.11 Alternative Materials, Design and Methods of Construction and Equipment (attached) and Section 11B-103 Equivalent Facilitation (attached). The alternative method of construction proposed is documented in the attached Code Alternate Construction or Material Proposal packet. This proposal was deemed to meet or exceed the accessibility and usability of an alternate tactile warning system relative to the system's quality, strength, effectiveness, fire-resistance, durability and safety. Specifically, our office considered the following:

- Durability of tactile warning
- Extent (amount) of tactile warning
- Color of the tactile warning
- Frequency, spacing, size and pattern of tactile warning
- Sound of a cane on the tactile warning

The above mentioned code sections specifically allow and set the approval criteria for the Building Official to consider and approve alternative methods of accessibility compliance.

It is important to give consideration to the context in which the code regulations are being applied. In this instance, the code regulations for tactile warning are written for use at a wide variety of applications such as busy bus transit centers, mall parking lots, etc. The proposed project is utilizing a private, one-way, narrow drive aisle that is shared with the pedestrian as a means of traffic calming. Staff has been advised that this type of shared vehicle transit/pedestrian way is called a "woonerf". This code alternate proposal was evaluated specifically for this "woonerf" application and not for more traditional and intense vehicular applications.

The proposed detectable warning alternate utilizes natural stone materials with a proven quality, strength, durability and safety history that are superior to the code standard, plastic, truncated domes. Further, the proposed alternate was evaluated by the Braille Institute and determined to be "preferable to the truncated domes that are placed for the same purpose", thus confirming that from a functional perspective, the extent frequency, pattern, and sound of the tactile warning was equivalent. The color of the proposed tactile warning will necessitate additional discussion throughout the plan check process. Of specific concern is that while the code requires only Federal Yellow color, the code does not prohibit Federal Yellow warning adjacent to another yellow or light color pavement – thus reducing or eliminating a contrast in color that visually impaired citizens can rely upon. Staff envisions a final design with a 70-80% light reflectance contrast between the proposed tactile warning and the adjacent vehicular way.

Given that the above criteria for code alternate approval was met, my office approved this code alternate.

Copy: 3732 State Street - Street File

Attached: Approved City Code Alternate Construction or Modification Proposal submittal
Appellant's letter and documentation
2013 California Building Code, Sections 104.11 & 11B-103

CHAPTER 11B

ACCESSIBILITY TO PUBLIC BUILDINGS,
PUBLIC ACCOMMODATIONS, COMMERCIAL
BUILDINGS AND PUBLIC HOUSING

DIVISION 1:
APPLICATION AND ADMINISTRATION

11B-101 Purpose

11B-101.1 General. This chapter contains scoping and technical requirements for accessibility to sites, facilities, buildings, and elements by individuals with disabilities. The requirements are to be applied during the design, construction, additions to, and alteration of sites, facilities, buildings, and elements to the extent required by Chapter 1, Section 1.9.

11B-101.2 Reserved.

11B-102 Dimensions for adults and children. The technical requirements are based on adult dimensions and anthropometrics. In addition, this chapter includes technical requirements based on children's dimensions and anthropometrics for drinking fountains, water closets, toilet compartments, lavatories and sinks, dining surfaces, and work surfaces.

11B-103 Equivalent facilitation. Nothing in these requirements prevents the use of designs, products, or technologies as alternatives to those prescribed, provided they result in substantially equivalent or greater accessibility and usability.

11B-104 Conventions

11B-104.1 Dimensions. Dimensions that are not stated as "maximum" or "minimum" are absolute.

11B-104.1.1 Construction and manufacturing tolerances. All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points.

11B-104.2 Calculation of percentages. Where the required number of elements or facilities to be provided is determined by calculations of ratios or percentages and remainders or fractions result, the next greater whole number of such elements or facilities shall be provided. Where the determination of the required size or dimension of an element or facility involves ratios or percentages, rounding down for values less than one half shall be permitted.

11B-104.3 Figures. Unless specifically stated otherwise, figures are provided for informational purposes only.

11B-105 Referenced standards.

11B-105.1 General. See Chapter 35.

11B-106 Definitions

11B-106.1 General. For the purpose of this chapter, the terms listed in Section 11B-106.5 and defined in Chapter 2 have the indicated meaning.

11B-106.2 Terms defined in referenced standards. Terms not listed in Section 11B-106.5 and not defined in Chapter 2, Section 202, but specifically defined in a referenced standard, shall have the specified meaning from the referenced standard unless otherwise stated.

11B-106.3 Undefined terms. The meaning of terms not specifically listed in Section 11B-106.5, and not defined in Chapter 2, Section 202, or in referenced standards shall be as defined by collegiate dictionaries in the sense that the context implies.

11B-106.4 Interchangeability. See Chapter 2, Section 201.2.

Convention	Description
	dimension showing English units (in inches unless otherwise specified) above the line and SI units (in millimeters unless otherwise specified) below the line
	dimension for small measurements
	dimension showing a range with minimum - maximum
min	minimum
max	maximum
>	greater than
≥	greater than or equal to
<	less than
≤	less than or equal to
	boundary of clear floor space or maneuvering clearance
	centerline
	a permitted element or its extension
	direction of travel or approach
	a wall, floor, ceiling or other element cut in section or plan
	a highlighted element in elevation or plan
	location zone of element, control or feature

FIGURE 11B-104
GRAPHIC CONVENTION FOR FIGURES

[A] **104.8 Liability.** The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

[A] **104.9 Approved materials and equipment.** Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

[A] **104.9.1 Used materials and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

[A] **104.10 Modifications.** Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building 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, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

[A] **104.10.1 Flood hazard areas.** The building official shall not grant modifications to any provision required in flood hazard areas as established by Section 1612.3 unless a determination has been made that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section 1612 inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.

5. Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

[A] **104.11 Alternative materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building 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. *[DSA-SS & DSA-SS/CC, OSHPD 1, 2 & 4] Alternative system shall satisfy ASCE 7 Section 1.3, unless more restrictive requirements are established by this code for an equivalent system.*

Alternative systems also satisfy the California Administrative Code, Section 7-104. [OSHPD 1, 2 & 4] and Section 4-304 [DSA-SS & DSA-SS/CC].

[A] **104.11.1 Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

[A] **104.11.2 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

104.11.3 Peer review. *[OSHPD 1 & 4] When peer review is required, it shall be performed pursuant to Section 3414A.*

104.11.4 Earthquake monitoring instruments. *[OSHPD 1 & 4] The enforcement agency may require earthquake monitoring instruments for any building that receives approval of an alternative system for the Lateral Force Resisting System (LFRS). There shall be a sufficient number of instruments to characterize the response of the building during an earthquake and shall include at least one tri-axial free field instrument or equivalent. A proposal for instrumentation and equipment specifications*



City of Santa Barbara
Building & Safety Division
**CODE ALTERNATE CONSTRUCTION
or MATERIAL PROPOSAL**

Community Development
Department
630 Garden Street
805-564-5485

[A] 104.11 2013 California Building Code – The provisions of this code are not intended to prevent the installation of any material or prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building 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.

Project Address: 3714-3744 STATE ST New Case # BLD2015-~~0285~~ 6-00684

Check One: Residential Single Family Residential Multi-family Commercial Mixed Use

Person Submitting Request: John J. Schuck Phone Number: 805-680-8989

Property Owner: KW FUNDY - SANDMAN, LLC

Briefly describe the code requirement, including all applicable code section(s), that you wish to provide an alternate for: the JULY 1, 2015 MID-CYCLE AMENDMENT 1116.5A

REQUIRING 3' OF TRUNCATED DOMES SEPARATING A DRIVE AISLE FROM WALKPATH/SIDEWALK

Briefly describe the Code Alternate which is being requested. Include the reason(s) for being unable to comply with the code requirements and provide any supporting documentation that may aid in the decision making process. Attach additional documents if necessary: THE HEAD BUILDING OFFICIAL,

GEORGE ESTRELLA, OK'D THE USE OF COMBINING A DRIVE AISLE W/ WALK WAY, IF SEPARATE MATERIALS ARE USED, INCLUDING A 1' PEBBLE STRIP. THE BRAILLE INSTITUTE SUPPORTED WHAT WE PROPOSED.

THE ENTIRE PROJECT WAS DESIGNED AND APPROVED BASED ON THAT DECISION. AND, OUR FIRST BUILDING PERMIT WAS APPLIED FOR 6 WEEKS BEFORE THE CODE CHANGE.

Applicant: JOHN J. SCHUCK, OWNER, FRANCISCON DEVELOPMENTS

Signature: [Signature] Date: 3/29/16

If a Code Alternative is granted, this completed form MUST be reproduced on the plans before the permit is issued.

THIS SPACE FOR OFFICE USE ONLY		Approved	Denied
Fire Department review by: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
Building & Safety review by: <u>[Signature]</u>	Date: <u>3/29/16</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Zoning/Planning review by: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
Public Works review by: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
Comments: _____			
FEES (A min. 1/2 hr. plan check fee is required at submittal. Additional fees may be required): \$ _____			

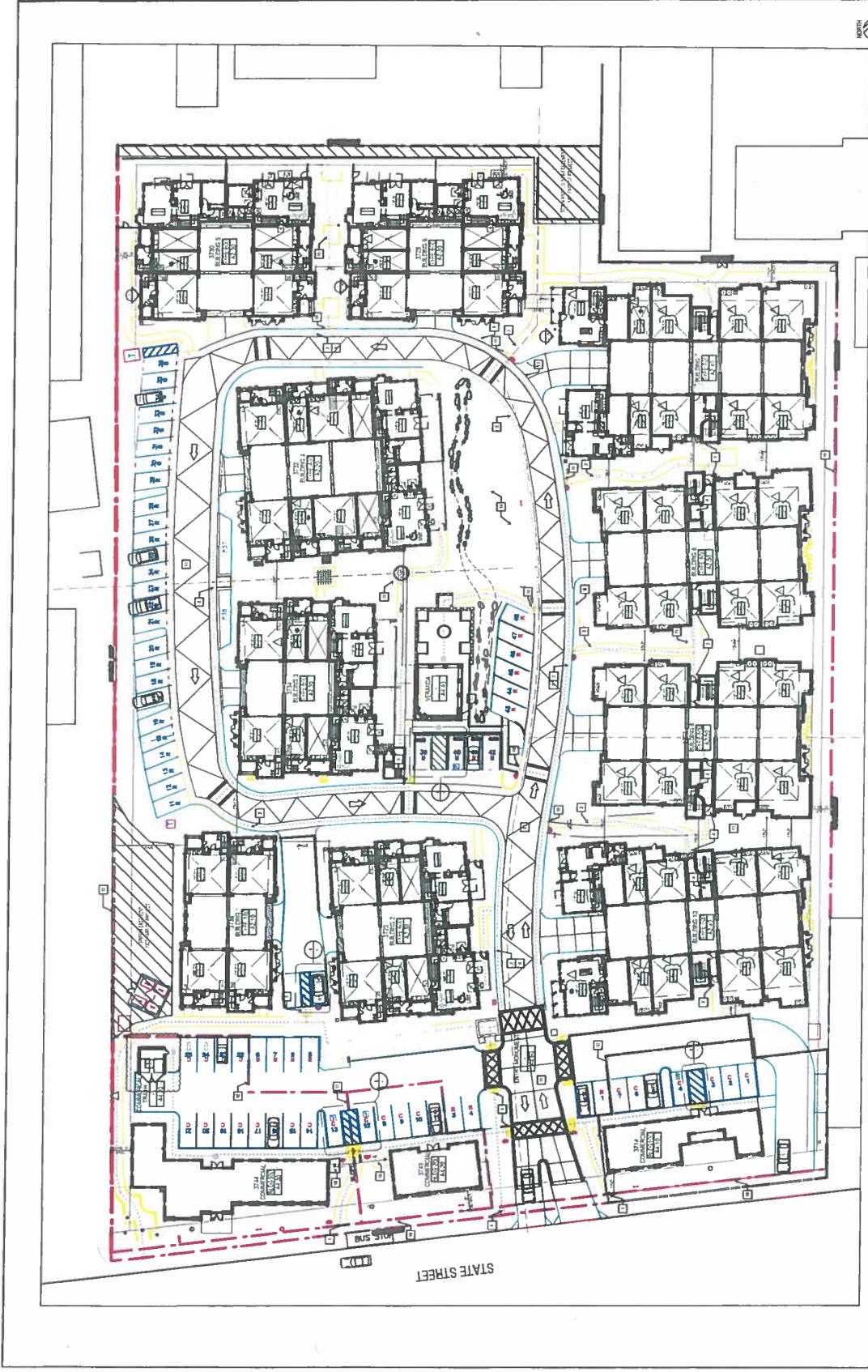
SANDMAN
 371-4 STATE STREET
 FRANCISCAN DEVELOPMENTS INC.

WILLIAM CZERNIACH
 ARCHITECTS INC.
 1000 MARKET STREET, SUITE 100
 SAN FRANCISCO, CA 94102
 TEL: 415.774.1100
 WWW.WILLIAMCZERNIACH.COM



REVISIONS

NO.	DATE	DESCRIPTION
1	03/29/16	ISSUED FOR PERMITS



ARCHITECTURAL SITE PLAN - SCALE: 1" = 20'-0"

1 SITE PLAN NOTES

1. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.
2. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.
3. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.
4. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.
5. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.
6. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.
7. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.
8. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.
9. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.
10. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.

SITE PLAN ACCESSIBILITY NOTES

1. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.

SITE LEGEND

1. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.

ACCESSIBILITY BUILDING MATRIX

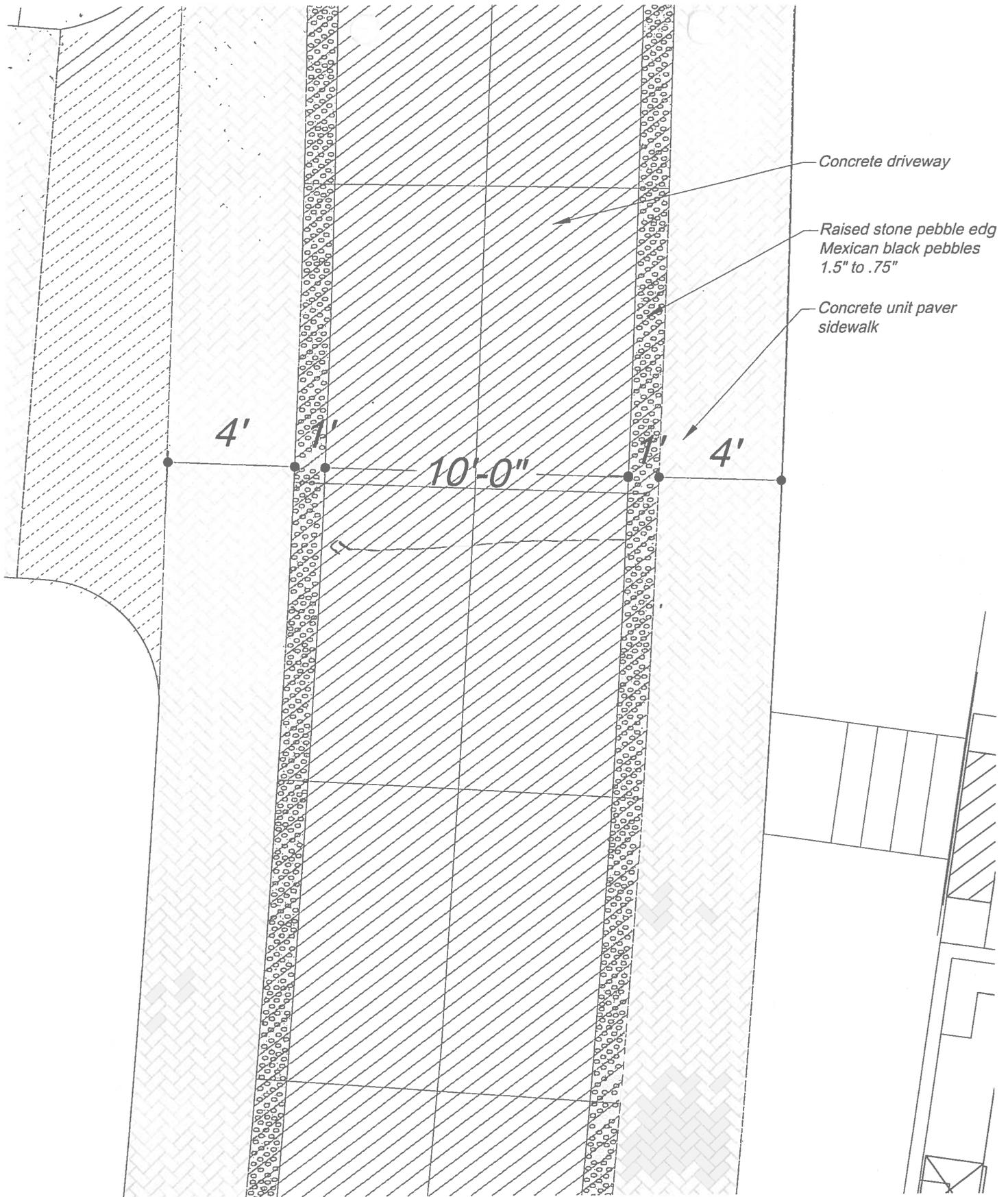
BUILDING #	# OF UNITS	# OF ACCESSIBLE UNITS
1	10	10
2	10	10
3	10	10
4	10	10
5	10	10
6	10	10
7	10	10
8	10	10
9	10	10
10	10	10
TOTAL	100	100

ACCESSIBILITY CALCULATIONS

1. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.

UNITS ACCESSIBILITY REQUIREMENTS

1. ALL ACCESSIBLE ROUTES SHALL BE MAINTAINED THROUGHOUT THE PROJECT.



TYPICAL PAVING / SANDMAN

1/4" = 1'-0"



*Empowering visually impaired
people to live fulfilling lives*

Michael R. Lazarovits
EXECUTIVE DIRECTOR
Santa Barbara

December 20, 2013

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Cearnal Andrulatis Architect
& Interior Design
Mr. Brain Cearnal
521 ½ State Street
Santa Barbara, CA 93101

Dear Mr. Cearnal

On Wednesday, December 11, 2013, Orientation and Mobility Specialist, Kathleen Ely, and Braille Institute Staff member, Greg Benavidez, traveled to the Bella Riviera location to assess the walkways and driveways. Their primary purpose was to evaluate how safe and accessible these were for those who are blind and visually impaired. Below is their evaluation.

The pebble borders were easy to detect with a cane and ran consistently throughout the property to differentiate the walkways from the driveways. We both felt that it was an architecturally pleasing way to alert both sighted and visually impaired pedestrians. For those who are visually impaired, this is preferable to the truncated domes that are placed for the same purpose.

Kathleen Ely is s credentialed Orientation and Mobility Specialists through San Francisco State University. Orientation and Mobility Specialists provide instruction in basic skills and protective techniques, cane travel, visual efficiency training, intersection analysis and safe street crossings and use of public transportation.

Greg Benavidez has been the Access Technology Specialist at Braille Institute Santa Barbara for almost 9 years. He lost his vision 22 years ago due to retinitis pigmentosa.

Let me know if we can provide any additional information

Sincerely,

Michael R. Lazarovits
Executive Director

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Richard N. Weinreb, M.D.

3/23/2016

Fwd: BELLA RIVIERA ANALYSIS OF "PEBBLE STRIP"

521 1/2 STATE STREET
SANTA BARBARA, CA 93101
P: 805.963.8077 x211
F: 805.963.0684

ja@cearnal.com
www.cearnal.com

Please consider the environment before printing this e-mail

On Jan 6, 2014, at 2:37 PM, "Estrella, George" <GEstrella@SantaBarbaraCA.gov> wrote:

Joe,

Thanks, that will do it and I will approve it!

Although I have not seen the hard copy.....but this is my first day back at the office. It must be around here somewhere.

George A. Estrella
Chief Building Official
City of Santa Barbara
(805) 564-5553

Please note: Due to a compressed 9/80 work schedule, most city offices are closed every other Friday. To view the city calendar go to http://www.santabarbaraca.gov/Government/City_Calendar

From: Joe Andrulaitis [<mailto:ja@cearnal.com>]
Sent: Thursday, January 02, 2014 8:32 AM
To: Estrella, George
Cc: Brian Cearnal; Short, Chris; Cassidy, Lonnie J; Greg Parker; Ken Marshall
Subject: Re: BELLA RIVIERA ANALYSIS OF "PEBBLE STRIP"

George,

See attached comments from the Braille Institute on letterhead. Thanks

JOE ANDRULAITIS, AIA, LEED AP BD+C
CEARNAL ANDRULAITIS LLP
521 1/2 STATE STREET
SANTA BARBARA, CA 93101
P: 805.963.8077 x211
F: 805.963.0684

ja@cearnal.com
www.cearnal.com

Please consider the environment before printing this e-mail

3/23/2016

Fwd: BELLA RIVIERA ANALYSIS OF "PEBBLE STRIP"

On Dec 12, 2013, at 2:16 PM, "Estrella, George" <GEstrella@SantaBarbaraCA.gov> wrote:

Brian,

That sounds great but please have this acknowledgement on Braille Institute letterhead as way of being more official, which can be included in the email. Once we receive this we will sign off as being in compliance and a very nice picture, which we can also use as documentation.

Thanks,

George A. Estrella
Chief Building Official
City of Santa Barbara
(805) 564-5553

Please note: Due to a compressed 9/80 work schedule, most city offices are closed every other Friday. To view the city calendar go to http://www.santabarbaraca.gov/Government/City_Calendar

From: Brian Cearnal [<mailto:bc@cearnal.com>]
Sent: Thursday, December 12, 2013 12:37 PM
To: Estrella, George
Cc: Short, Chris; Cassidy, Lonnie J; Joseph Andrulaitis; Greg Parker
Subject: BELLA RIVIERA ANALYSIS OF "PEBBLE STRIP"

George,

I met yesterday with Braille Institute staff (Kathleen Ely & Greg_____ *don't have his last name*) up at Bella Riviera.

They loved the Pebble Strip! Thought it worked better than truncated domes because of how it felt with the cane.

Kathleen indicated she will send an email confirming their observations for our records.

BC

<image001.jpg>

Brian Cearnal, AIA, LEED AP
Cearnal Andrulaitis, LLP
Architecture & Interior Design
521 1/2 State St. Santa Barbara, CA 93101



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

**REQUEST FOR
APPEALS BOARD HEARING**

Subject Property Address 3732 State St. Date April 7, 2016
APN 053-300-023
Owner's Name KW Fund V-Sandman, LLC
Owner's Address c/o Brian Cearnal, 521 State St. (Phone) (805) 963-8077
Owner's Email Address bcearnal@cearnal.com

Decision Being Appealed

A brief statement specifying order or action protested:
Accessible Santa Barbara appeals from the decision of the building official to grant, on this date, April 7, 2016, application BLD2016-00684 for a code alternate. Please see attached.

- 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:
This decision is not the proper subject of a "ratification" appeal pursuant to the Cal. Health & Safety Code. Therefore, Accessible Santa Barbara appeals directly.
This decision is not warranted under the applicable codes and exceeds the scope of a waiver to accessibility which may be granted by the building official. Further explanation to follow, but please schedule hearing date. 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
William Rehling, Accessible Santa Barbara
P.O. Box 22013, Santa Barbara CA 93121-2013

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

Contact: accessiblesb@gmail.com
(805) 880-4724

City of Santa Barbara
Building and Safety Division

APR 07 2016

RECEIVED

City of SANTA BARBARA

(<http://www.santabarbaraca.gov/default.asp>)

Case Status Results - Details

DISCLAIMER

Every reasonable effort has been made to ensure the accuracy of the information provided; nevertheless, some information may not be accurate. Confirmation is recommended as there may be errors in the database.

Status for Case BLD2016-00684

[Back](#)

Address: 3732 STATE ST

Case Number: BLD2016-00684

Case Type: Building Permit

Description: Request to allow the installation of alternate method of compliance for the required truncated dome installation per the 2015 CBC, Section 1116.5A.

Application Date: 3/29/2016

Status: MA

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed ▲ (status.asp?Case=BLD2016-00684&Direction=DESC#SortedByIndicatorTable)
Application Received	4/7/2016
Initial Review - Building	4/7/2016
Code Mod Approved	4/7/2016

[Case Status Form \(default.asp\)](#)

[Back](#)

[Top of Page](#)

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Last Updated: Apr 2, 2014

Stuffer, Andrew

From: Brian Cearnal <bc@cearnal.com>
Sent: Friday, April 22, 2016 1:57 PM
To: Stuffer, Andrew
Cc: John Schuck
Subject: Re: Summary of Bella Riviera visit with Brian and Bob

Andrew,

I have read Jim Marston's letter to you regarding our visit Bella Riviera.

I must strongly object to some of Jim's observations as follows:

1. Jim stated Bob Burnham was "unable to detect the safety warnings" (pebble strip). That is not correct. Bob was able to detect the pebble strip, he just had difficulty differentiating the pebble strip from the permeable pavers. When I took the cane, I certainly understood the problem of the similarity of sensation, but for me the pebble strip **did** feel different than the pavers. We discussed the color contrast and I agreed it could be better but I never suggested the pebble strip should change to yellow.

2. Jim indicated the traffic was mostly slow, but that was no guarantee of traffic flow. During the time we stood in the driveway (at least 20 minutes), 2 cars passed at very slow speed; well aware of our presence. The "highly researched need for 3' domes in Federal yellow" NEVER anticipated a 'woonerf' or 'shared street' concept that we are advocating for!

I have spent a lot of time at this site and at older projects we have designed with the 'woonerf' concept and the automobile traffic is always very light and travels very slow; always respectful of the pedestrian activity.

3. Jim suggests I "learned how my design would not be safe". I categorically disagree! I absolutely believe this application is safe because of the nature of the design. I would never advocate for any unsafe design! The pebble strip is a way to comply with the spirit of the code, but the true safety comes from the fact that this is NOT a traditional vehicular way that requires a conventional 3' strip of domes in Federal yellow.

I am disappointed that Jim completely failed to acknowledge this significant difference.

I look forward to the opportunity to defend our code modification request on May 5th. I agree with Jim that a more definitive spec for the pebble strips, including color and spacing, height, etc. would be advisable.

Thanks for your consideration and please share this reply with the Board.

Respectfully,

BC
 BRIAN CEARNAL, AIA, LEED AP
 THE CEARNAL COLLECTIVE, LLP
 521 1/2 STATE STREET
 SANTA BARBARA, CA 93101
 P: 805.963.8077 x203
 F: 805.963.0684
 C:805.689.4794

bc@cearnal.com
www.cearnal.com

Please consider the environment before printing this e-mail

On Apr 22, 2016, at 10:26 AM, Stuffer, Andrew <astuffer@SantaBarbaraCA.gov> wrote:

Hi Brian,

Attached is an assessment of your meeting with local visually impaired access compliance advocates. Would you please read this and respond to it?

Thanks,
Andrew

From: Jim Marston [<mailto:jim.marston@gmail.com>]
Sent: Tuesday, April 19, 2016 7:33 PM
To: Stuffer, Andrew
Subject: Summary of Bella Riviera visit with Brian and Bob

Good Morning Andrew, please see attached summary of our visit.

--

Jim Marston, Ph.D.

Assistant Project Scientist, Department of Geography

and the Institute for Social, Behavioral and Economic Research (ISBER)

,
University of California, Santa Barbara

Affiliate Scientist, Smith Kettlewell Eye Research Institute, San Francisco

[Google Scholar Citations](#)

[Marston CV](#)

UCSB Web: <http://www.geog.ucsb.edu/~marstonj/>

Andrew Stuffer

City Building Official

Dear Andrew, thank you for including me in your suggestion that Mr. Brian Cearnal meet with members of the visually impaired community. We had a successful investigation at Bella Riviera site. I used my experience as a human factors investigator to perform about four walks and had Bob Burnham try and detect the one foot strip of pebbles. These walks went from one sidewalk to the other side at various angled crossings. Bob was unable to detect the safety warnings. I then had Brian take a cane and he too could not identify the warning, mentioning that the pavers felt just like the pebbles. We discussed that there was no color contrast, (he mentioned that he should change the pebbles to yellow) and that the one foot width allowed a cane to completely pass over the warning.

Brian of course was concerned about aesthetics, and I tried to explain that the more important item was pedestrian safety. I also pointed out that his pebbles were set randomly, and that any alternative should have complete specs, such as height, spacing, size etc.

I agreed that the traffic there was mostly slow, but that by itself is no guarantee of traffic flow and as far as I know, is still not a valid reason to ignore the highly researched need for three foot domes in Federal yellow.

We then stopped at 525 E Mitch and I had Bob stand in the parking lot, and then walk toward my voice on the sidewalk. Bob was easily able to identify when he was at the warnings and when he reached the safety of the sidewalk. I had Brian try the cane there and he realized how much more information they provided and I then pointed out how there was also the required "sound on cane" differential, and he agreed that the pebble surface did not provide that.

Brian said that he learned much from this visit and even talked about having us meet with the AIA group to discuss the needs of the visually impaired.

After the visit I received an email from Brian asking me what I thought about changing the plans and including a rolled curb, after checking with the fire department. I said he should discuss the code requirements for curbs with the City Plan checkers, but I do think, if this meets both fire and 11B code, this would be an acceptable alternative, but I could not give him blanket approval, as it would be a code issue at that point.

My impression was that he learned how his design would not be safe and he was willing to submit new plans.

Sincerely,

Jim marston Ph.D.



CEARNAL COLLECTIVE
ARCHITECTURE & INTERIOR DESIGN

April 25, 2016

THE “WOONERF” CONCEPT

The vehicular/pedestrian system designed for the Sandman project is a “woonerf”/paseo concept, also referred to as a “shared street” system.

Please see Exhibit A for a full explanation of a “woonerf.”

The woonerf has been used successfully and safely throughout the United States and in many countries around the world.

Please see Exhibit B for woonerfs/shared street examples.

In fact, the woonerf/paseo concept has been used safely and successfully in Santa Barbara, both at Villa Del Mar (2004) located at the corner of Santa Barbara and Yanonali Street and at Bella Riviera (2012) located at the former St Francis Hospital site on upper Micheltorena Street.

In the woonerf concept, the vehicle becomes subordinate to the pedestrian resulting in enhanced pedestrian safety.

THE SANDMAN CONCEPT

A vehicle or pedestrian enters the Sandman development off State Street, passing through a commercial zone that utilizes standard street design (such as curbed sidewalks and truncated domes), then enters the residential zone of the project.

This transition from the public sphere to the private is visually expressed with a portal and tactilely expressed with a change in pavement surface design – letting the user know that he/she has entered into a different environment, one that uses a private, one-way, residential drive that accesses each of the buildings.

This private, one way drive with extremely limited automobile traffic is not what the building code intended to address with the 3’ wide truncated domes as detectable warning devices. These requirements were to address more typical street systems and intersections with a greater traffic intensity both in regards to speed and frequency.



CEARNAL COLLECTIVE
ARCHITECTURE & INTERIOR DESIGN

The Sandman woonerf system delineates a clean safe pedestrian zone of 5 feet on both sides of the 10' drive aisle. This safe zone is differentiated by a change in the paving material and with a one foot pebble strip. *Please see Exhibit C.*

It is important that the paving material for this pedestrian zone not be the truncated domes because that would provide incorrect information to the users, indicating that they were in a conventional road system rather than the shared street system. By utilizing alternative surfacing such as the pebble strip, the user has been provided additional information to best understand the environment they are in.

In addition, the installation of the two rows of 3 foot wide truncated domes (if installed) would reduce the drive aisle to only six feet, forcing cars to drive on the detectable warning devices, defeating their purpose, and clearly not the intention of the code requirement. *Please see Exhibit D.*

THE ALTERNATE MEANS AND METHODS CONCEPT

Because code requirements can't be a "one size fits all" application, the Building Official is given the flexibility and the responsibility to determine when a unique situation exists and he is given the authority to make positive finding for an alternate method.

The case for support of the Sandman alternate is well regarded by the Braille Institute and professionals in the Orientation and Mobility field. *Please see Exhibit E.*

We believe the approval of the code alternate in the case of the Sandman development is not only warranted on its merit, but it is also a justifiable and responsible decision in this situation.

EXHIBIT A

EXHIBIT A

“A woonerf is a street or square where cars, pedestrians, cyclists, and other local residents travel together without traditional safety infrastructure to guide them. Also sometimes called a “shared street,” a woonerf is generally free of traffic lights, stop signs, curbs, painted lines, and the like.”¹

“Even though it seems that the vehicular traffic and the pedestrians would conflict, the physical design subordinates the traffic. That situation is much safer for the pedestrian than is the usual street layout. Studies in Europe, Japan, and Israel show that on shared streets the number of accidents declines by more than 20 percent and the number of severe accidents by more than 50 percent, compared with traditional streets. (Toshi Jutaku 1983; Kanazaki, Ohomori, and Ishimura 1984; Polus 1985; Kraay 1986; Krause 1986; Nobel and Jenks 1989; Brilion and Blanke 1990; Engel 1990; Janssen 1991)”²

“This concept of ‘shared space’ was first conceived over thirty years ago by Hans Monderman, a traffic engineer from the Netherlands, who has helped bring what was first seen as an oddball movement into a mainstream approach to traffic engineering. Shared space schemes started in the Netherlands, spread to mainland Europe, UK and more recently Monderman’s work is being picked up as far afield as USA and Russia. Monderman argues that while traditional tools of separation are necessary on motorways and busy highways where the single purpose is the movement of traffic, in the complex world of the public realm with its multitude of functions, they become redundant.”

“Although until recently there have been relatively few examples of curbless streets being implemented in urban environments in the U.S., numerous such designs have either been implemented in the past few years or are in the pipeline.”³

An example of a recently completed Shared Street is the Borderline Neighborhood in Santa Monica, CA, completed in 2013

¹“6 Places Where Cars, Bikes, and Pedestrians All Share the Road As Equals” *The Atlantic CityLab website* 2015/03/6

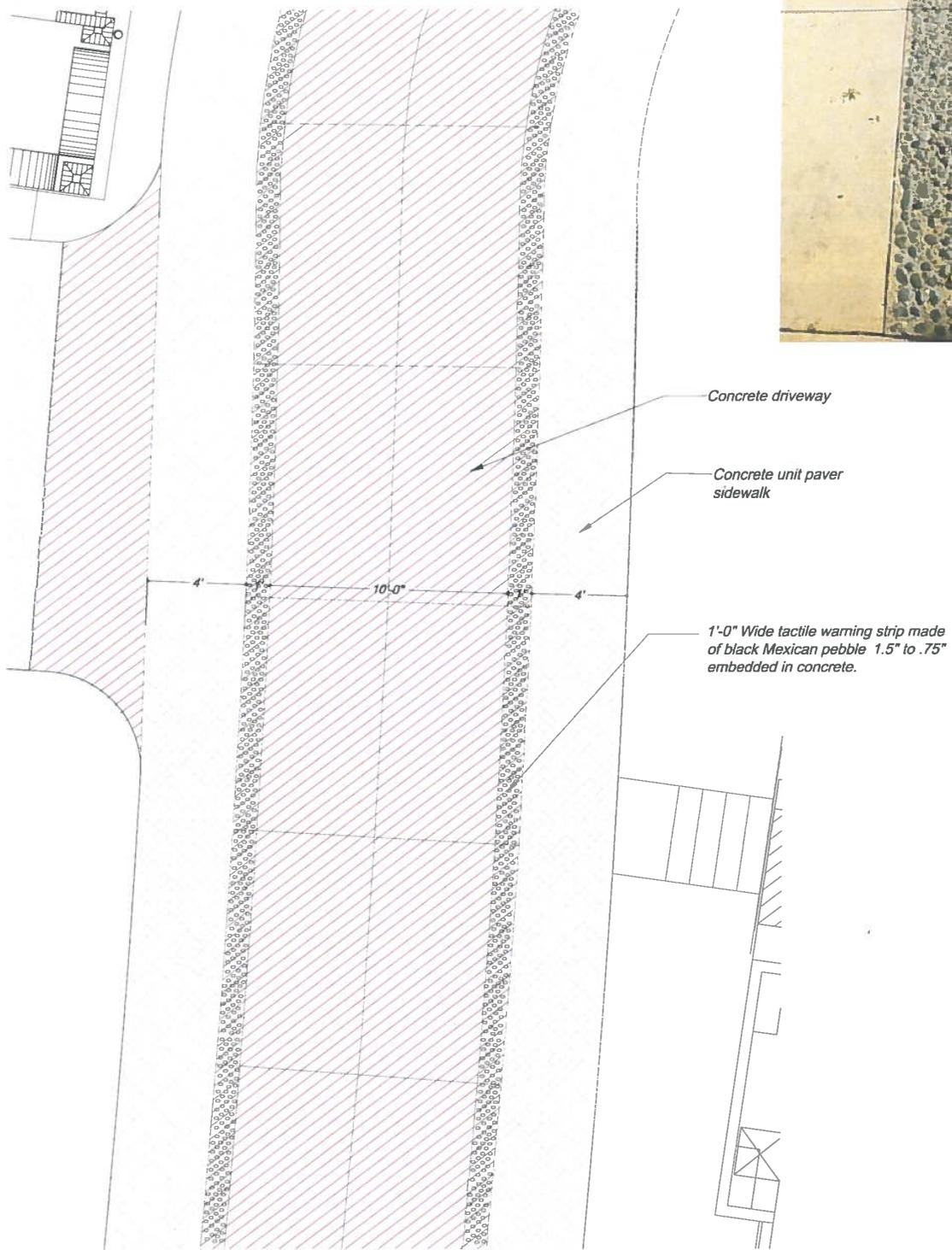
²“Changing the Residential Street Scene” *Eran Ben-Joseph APA Journal, Autumn 1995*

³<http://www.sharedspace.org/download.asp?link=/files/15047/TEC.doc&linkID=1353>
77

“This unique Shared Green Street project (Borderline Neighborhood) also includes decorative and permeable street pavers at street intersections and parking areas, sidewalk constructed at street grade to better accommodate pedestrian and Americans with Disabilities access as well as other improvements including a new water line. **The “Shared Green Street” concept integrates, rather than segregates, all road users in a non-hierarchical, people-oriented, low-speed environment where physical cues guide driver behavior rather than just traditional traffic signals, signs, markings and curbs.**”⁴

⁴ *League of California Cites website “Borderline Neighborhood” 2013*

EXHIBIT C



Tactile Warning Between Walkway and Drive Aisle

Scale: 1/4" = 1'-0"

EXHIBIT C

EXHIBIT D



Tactile Warning Between Walkway and Drive Aisle

Scale: 1/4" = 1'-0"

EXHIBIT D

APPELLANT'S EXHIBIT 4

City of SANTA BARBARA

(<http://www.santabarbaraca.gov/default.asp>)

Case Status Results - Details

DISCLAIMER

Every reasonable effort has been made to ensure the accuracy of the information provided; nevertheless, some information may not be accurate. Confirmation is recommended as there may be errors in the database.

Status for Case BLD2015-01791

[Back](#)

Address: 3714 STATE ST

Case Number: BLD2015-01791

Case Type: Building Permit

Description: Rough grading of (e) site to include 600 cyd cut and 3,000 cyd fill.

Application Date: 8/11/2015

Status: Permit Issued

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-01791&Direction=DESC#SortedByIndicatorTable)
1st Resub Received	
Print Plan Labels ROUTE	8/11/2015
Initial Review - Fire	8/11/2015
Initial Review - Zoning (PC)	8/12/2015
Initial Review - Mech/Plbg	8/18/2015
1st Resub - Mech/Plbg	8/18/2015
Initial Review - Building	8/26/2015

Initial Review - PW Eng (PC)	8/31/2015
Print Initial Corr List	9/1/2015
IR Returned to Applicant	9/1/2015
1st Resub - Fire	9/24/2015
1st Resub - Zoning (PC)	9/28/2015
1st Resub - Building	10/6/2015
Application Received	10/7/2015
OK to issue	10/7/2015
Issue/Print BLD Permit	11/12/2015
Insp - Rough Grading	1/4/2016
Insp - INITIAL EROSION CONTROL	1/13/2016
Insp - ADD'L EROSION CONTROL	1/14/2016

[Case Status Form \(default.asp\)](#)

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Last Updated: Apr 2, 2014

735 Anacapa Street
Santa Barbara, CA 93101
(805) 963-0611

(805) 564-5475 (Fax)

Mailing Address:

City of Santa Barbara
P.O. Box 1990

Santa Barbara, CA 93102-1990

[Visiting \(/visiting/default.asp\)](/visiting/default.asp)

[Services \(/services/default.asp\)](/services/default.asp)

[Government \(/gov/default.asp\)](/gov/default.asp)

[How Do I \(/howdoi/default.asp\)](/howdoi/default.asp)

[Contact Us \(/contact/default.asp?utm_source=MostPopular&utm_medium=TheCityofSantaBarbaraDirectory&utm_campaign=H\)](/contact/default.asp?utm_source=MostPopular&utm_medium=TheCityofSantaBarbaraDirectory&utm_campaign=H)

[FAQs \(/faqs/default.asp\)](/faqs/default.asp)

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[Site Policy \(/howdoi/get/webhelp/policy.asp\)](/howdoi/get/webhelp/policy.asp)

735 Anacapa Street
Santa Barbara, CA 93101
(805) 963-0611

(805) 564-5475 (Fax)

Mailing Address:

City of Santa Barbara
P.O. Box 1990

Santa Barbara, CA 93102-1990

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Case Status Results - Details

DISCLAIMER
 Every reasonable effort has been made to ensure the accuracy of the information provided; nevertheless, some information may not be accurate. Confirmation is recommended as there may be errors in the database.

Status for Case BLD2015-02851

[Back](#)

Address: 3732 STATE ST

Case Number: BLD2015-02851

Case Type: Building Permit

Description: Building #4 (Type 400) - Construct new 14,555 sq.ft. residential building; 3,237 sq.ft. garage and 518 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/15/2015

Status: R1

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02851&Direction=DESC#SortedByIndicatorTable)
Application Received	
1st Resub Received	
1st Resub - Building	
Initial Review - Cross Conn	1/8/2015
Print Plan Labels ROUTE	12/30/2015
Initial Review - Fire	1/6/2016
Initial Review - Water Dist	1/11/2016

Initial Review - Electrical	1/13/2016
Initial Review - Mech/Plbg	1/13/2016
Initial Review - Zoning (PC)	1/28/2016
Initial Review - Env Services	1/28/2016
Initial Review - Creeks	2/3/2016
Initial Review - PW Trans	2/4/2016
Initial Review - PW-WCLD	2/5/2016
Initial Review - PW Eng (PC)	2/10/2016
Print PARTIAL Init Corr	2/17/2016
Initial Review - Building	2/23/2016
Print Initial Corr List	2/24/2016
IR Returned to Applicant	2/24/2016
Applicant Information Sheet	2/24/2016
1st Resub - Fire	3/30/2016
1st Resub - Electrical	4/5/2016
1st Resub - Water Dist	4/7/2016
1st Resub - Cross Conn	4/7/2016
1st Resub - Zoning (PC)	4/11/2016
1st Resub - PW-WCLD	4/11/2016
1st Resub - PW Eng	4/14/2016
1st Resub - PW Trans	4/14/2016

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(805) 564-5475 (Fax)

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 Santa Barbara, CA 93102-1990

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[Services \(/services/default.asp\)](#)

[FAQs \(/faqs/default.asp\)](#)

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Case Status Results - Details

DISCLAIMER
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Status for Case BLD2015-02852

[Back](#)

Address: 3730 STATE ST

Case Number: BLD2015-02852

Case Type: Building Permit

Description: Building #5 (Type 600) - Construct new 10,951 sq.ft. residential building; 2,199 sq.ft. garage and 286 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/15/2015

Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02852&Direction=DESC#SortedByIndicatorTable)
Application Received	
Applicant Information Sheet	
Print Plan Labels ROUTE	12/30/2015

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Case Status Results - Details

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Status for Case BLD2015-02853

[Back](#)

Address: 3728 STATE ST

Case Number: BLD2015-02853

Case Type: Building Permit

Description: Building #6 (Type 600) - Construct new 10,951 sq.ft. residential building; 2,199 sq.ft. garage and 286 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/15/2015

Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02853&Direction=DESC#SortedByIndicatorTable)
Application Received	
Applicant Information Sheet	
Print Plan Labels ROUTE	12/30/2015

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Case Status Results - Details

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Status for Case BLD2015-02854

[Back](#)

Address: 3726 STATE ST

Case Number: BLD2015-02854

Case Type: Building Permit

Description: Building #7 (Type 700) - Construct new 15,267 sq.ft. residential building; 4,761 sq.ft. garage and 1,354 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/15/2015

Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02854&Direction=DESC#SortedByIndicatorTable)
Application Received	
Applicant Information Sheet	
Print Plan Labels ROUTE	12/30/2015

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Case Status Results - Details

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Status for Case BLD2015-02855

[Back](#)

Address: 3724 STATE ST

Case Number: BLD2015-02855

Case Type: Building Permit

Description: Building #8 (Type 800) - Construct new 12,424 sq.ft. residential building; 4,582 sq.ft. garage and 1,308 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/15/2015

Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02855&Direction=DESC#SortedByIndicatorTable)
Applicant Information Sheet	
Application Received	
Print Plan Labels ROUTE	12/30/2015

[Case Status Form \(default.asp\)](#)

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Case Status Results - Details

DISCLAIMER

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Status for Case BLD2015-02930

[Back](#)

Address: 3736 STATE ST

Case Number: BLD2015-02930

Case Type: Building Permit

Description: Building #1 (Type 100) - Construct new 8,023 sq.ft. residential building; 2,181 sq.ft. garage and 286 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/23/2015

Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02930&Direction=DESC#SortedByIndicatorTable)
Application Received	
Print Plan Labels ROUTE	12/30/2015

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Case Status Results - Details

DISCLAIMER

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Status for Case BLD2015-02931

[Back](#)

Address: 3720 STATE ST

Case Number: BLD2015-02931

Case Type: Building Permit

Description: Building #2 (Type 600) - Construct new 10,951 sq.ft. residential building; 2,199 sq.ft. garage and 286 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/23/2015

Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02931&Direction=DESC#SortedByIndicatorTable)
Application Received	
Print Plan Labels ROUTE	12/30/2015

[Case Status Form \(default.asp\)](#)

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Case Status Results - Details

DISCLAIMER

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Status for Case BLD2015-02932

[Back](#)

Address: 3734 STATE ST

Case Number: BLD2015-02932

Case Type: Building Permit

Description: Building #3 (Type 600) - Construct new 10,951 sq.ft. residential building; 2,199 sq.ft. garage and 286 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/23/2015

Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02932&Direction=DESC#SortedByIndicatorTable)
Application Received	
Print Plan Labels ROUTE	12/30/2015

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Case Status Results - Details

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Status for Case BLD2015-02933

[Back](#)

Address: 3722 STATE ST

Case Number: BLD2015-02933

Case Type: Building Permit

Description: Building #9 (Type 800) - Construct new 12,424 sq.ft. residential building; 4,582 sq.ft. garage and 1,308 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/23/2015

Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02933&Direction=DESC#SortedByIndicatorTable)
Application Received	
Print Plan Labels ROUTE	12/30/2015

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Case Status Results - Details

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Status for Case BLD2015-02934

[Back](#)

Address: 3718 STATE ST

Case Number: BLD2015-02934

Case Type: Building Permit

Description: Building #10 (Type 700) - Construct new 15,267 sq.ft. residential building; 4,761 sq.ft. garage and 1,354 sq.ft. of deck area. Site grading and improvements under BLD2015-02938.

Application Date: 12/23/2015

Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02934&Direction=DESC#SortedByIndicatorTable)
Application Received	
Print Plan Labels ROUTE	12/30/2015

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Status for Case BLD2015-02935

[Back](#)

Address: 3714 STATE ST
Case Number: BLD2015-02935
Case Type: Building Permit
Description: Bldg. #100 Construct - 1,536 sq.ft. commercial building.
Application Date: 12/23/2015
Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02935&Direction=DESC#SortedByIndicatorTable)
Application Received	
Print Plan Labels ROUTE	12/30/2015

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Case Status Results - Details

DISCLAIMER

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Status for Case BLD2015-02936

[Back](#)

Address: 3740 STATE ST
Case Number: BLD2015-02936
Case Type: Building Permit
Description: Bldg. #200 - Construct 1,067 sq.ft. commercial building.
Application Date: 12/23/2015
Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02936&Direction=DESC#SortedByIndicatorTable)
Application Received	
Print Plan Labels ROUTE	12/30/2015

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Case Status Results - Details

DISCLAIMER

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Status for Case BLD2015-02937

[Back](#)

Address: 3744 STATE ST
Case Number: BLD2015-02937
Case Type: Building Permit
Description: Bldg. #300 - Construct 2,736 sq.ft. commercial building.
Application Date: 12/23/2015
Status: Permit Pending Required Review

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02937&Direction=DESC#SortedByIndicatorTable)
Application Received	
Print Plan Labels ROUTE	12/30/2015

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Case Status Results - Details

DISCLAIMER

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Status for Case BLD2015-02938

[Back](#)

Address: 3714 STATE ST

Case Number: BLD2015-02938

Case Type: Building Permit

Description: Grading, drainage, paving and landscaping site work for future building construction.

Application Date: 12/23/2015

Status: Plans Back with Applicant for Corrections

Sorted by Activity Completed Date - Oldest First

Case Activities

Type	Date Completed  (status.asp?Case=BLD2015-02938&Direction=DESC#SortedByIndicatorTable)
Application Received	
1st Resub Received	
Print Plan Labels ROUTE	12/30/2015
Initial Review - Fire	1/4/2016
Initial Review - PW-WCLD	1/5/2016
Initial Review - Cross Conn	1/5/2016
Initial Review - Mech/Plbg	1/11/2016

Initial Review - Creeks	1/14/2016
Initial Review - Zoning (PC)	1/29/2016
Initial Review - PW Trans	2/3/2016
Initial Review - Building	2/4/2016
Initial Review - PW Eng (PC)	2/10/2016
Print PARTIAL Init Corr	2/10/2016
Print PARTIAL Init Corr	2/11/2016
Print Initial Corr List	2/17/2016
Initial Review - QSD/QSP	2/17/2016
IR Returned to Applicant	2/18/2016
1st Resub - Cross Conn	3/23/2016
1st Resub - Fire	3/23/2016
1st Resub - Creeks	3/24/2016
1st Resub - Zoning (PC)	3/25/2016
1st Resub - PW Trans	3/30/2016
1st Resub - Env Services	3/30/2016
1st Resub - PW-WCLD	4/4/2016
1st Resub - Mech/Plbg	4/7/2016
1st Resub - Building	4/25/2016
Print 1st Resub Corr List	4/25/2016
1st Resub Returned to App	4/26/2016

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APPELLANT'S EXHIBIT 5

APPELLANT'S EXHIBIT 6

✓ #80
2-29-16 Cons.



City of Santa Barbara ARCHITECTURAL BOARD OF REVIEW (ABR) RESUBMITTAL COVER SHEET

Date: 2-24-16
Fee: 180.00
Staff: AW

(For Subsequent Filings Only - Initial Filings Use Master Application)

PROJECT STREET ADDRESS: 3714-44 State Street / Sandman Project
DATE OF LAST ACTION: Dec. 2014 MST #: 2012-00443

DESCRIBE REQUEST, LAST ABR REVIEW AND CHANGES MADE SINCE THEN:

(Requests will not be accepted without a **COMPLETE** description of request and changes. **Only** the changes listed below will be considered for approval.)

Review after Final (RAF) for proposed accessible ramp to be added to design at NE corner/end of site. City staff recently advised that approved access/gate at North end must be ADA-compliant. This new/accessible ramp will require the removal of one "protected" Yucca tree at NE property line.

FULL BOARD	CONSENT CALENDAR
<input type="checkbox"/> CONCEPT CONTINUED	<input type="checkbox"/> CONTINUED
<input type="checkbox"/> PROJECT DESIGN (formerly Preliminary)	<input type="checkbox"/> PROJECT DESIGN (formerly Preliminary)
<input type="checkbox"/> IN-PROGRESS	<input type="checkbox"/> FINAL (Final Approval Checklist REQUIRED)
<input type="checkbox"/> FINAL (Final Approval Checklist REQUIRED)	<input type="checkbox"/> REVIEW AFTER FINAL
<input type="checkbox"/> REVIEW AFTER FINAL	<input checked="" type="checkbox"/> 1 copy of plans required at time of submittal.
<input checked="" type="checkbox"/> 3 copies of plans required at time of submittal.	

DATE: 2-24-16
NAME OF PERSON TO CONTACT: John Schuck / owner
ADDRESS: 1300 Santa Barbara St. Suite B
S.B. CA ZIP CODE: 93101
TELEPHONE: (805) 680-8989
E-MAIL ADDRESS: amalanca@flowersassoc.com (agent)
SIGNATURE OF PROPERTY OWNER/AUTHORIZED AGENT: Arturo Malanca

\\c:\p\c\comdev\Group\Folders\PLAN\Handouts\Official Handouts\Design Review\ABR Resubmittal Cover Sheet.docx

Original: 5/20/2014 9:54:00 AM Revised 5/20/2014 9:55:00 AM

APPELLANT'S EXHIBIT 7

1116A.5 Detectable warnings at vehicular areas. *When a walk crosses or adjoins a vehicular way, the walking surface shall be separated from the vehicular area by curbs, railings or other elements, or the boundary between the pedestrian areas and the vehicular areas shall be defined by a continuous detectable warning 36 inches (914 mm) wide minimum, complying with Chapter 11B, Section 11B-705.*

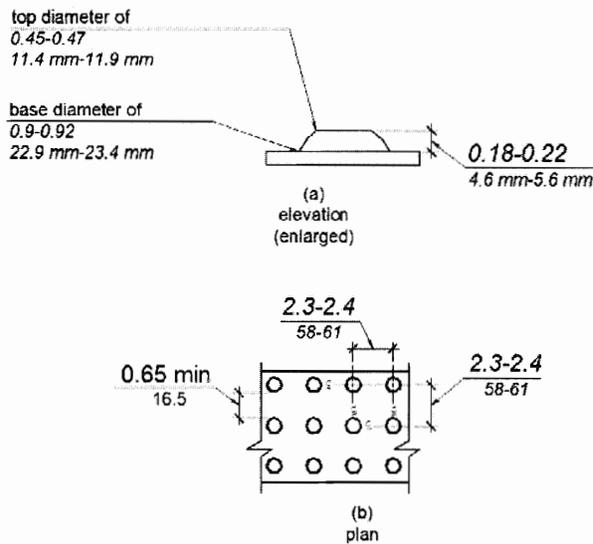
NOTE:

Authority Cited: Health and Safety Code Sections 17040, 17050, 17920.9, 17921, 17921.3, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17927, 17928, 17959.6, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1, 18873.2, 18873.3, 18873.4, 18873.5, 18938.3, 18944.11 and 19990; and Government Code Section 12955.1.

Reference: Health and Safety Code Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, and 19960 through 19997; and Government Code Sections 12955.1 and 12955.1.1.

APPELLANT'S EXHIBIT 8

11B-705 Detectable warnings and detectable directional texture

11B-705.1 Detectable warnings

**FIGURE 11B-705.1
SIZE AND SPACING OF TRUNCATED DOMES**

11B-705.1.1 General. Detectable warnings shall consist of a surface of truncated domes and shall comply with Section 11B-705.

11B-705.1.1.1 Dome size. Truncated domes in a detectable warning surface shall have a base diameter of 0.9 inch (22.9 mm) minimum and 0.92 inch (23.4 mm) maximum, a top diameter of 0.45 inch (11.4 mm) minimum and 0.47 inch (11.9 mm) maximum, and a height of 0.18 inch (4.6 mm) minimum and 0.22 inch (5.6 mm) maximum.

11B-705.1.1.2 Dome spacing. Truncated domes in a detectable warning surface shall have a center-to-center spacing of 2.3 inches (58 mm) minimum and 2.4 inches (61 mm) maximum, and a base-to-base spacing of 0.65 inch (16.5 mm) minimum, measured between the most adjacent domes on a square grid.

Exception: Where installed in a radial pattern, truncated domes shall have a center-to-center spacing of 1.6 inches (41 mm) minimum to 2.4 inches (61 mm) maximum.

11B-705.1.1.3 Contrast. Detectable warning surfaces shall contrast visually with adjacent walking surfaces either light-on-dark, or dark-on-light. The material used to provide contrast shall be an integral part of the surface. Contrast shall be determined by:

$Contrast = [(B1-B2)/B1] \times 100$ percent where

$B1$ = light reflectance value (LRV) of the lighter area and

$B2$ = light reflectance value (LRV) of the darker area.

Exception: Where the detectable warning surface does not adequately contrast with adjacent

surfaces, a 1 inch (25 mm) wide black strip shall separate yellow detectable warning from adjacent surfaces.

11B-705.1.1.4 Resiliency. Detectable warning surfaces shall differ from adjoining surfaces in resiliency or sound-on-cane contact.

Exception: Detectable warning surfaces at curb ramps, islands or cut-through medians shall not be required to comply with Section 11B-705.1.1.4.

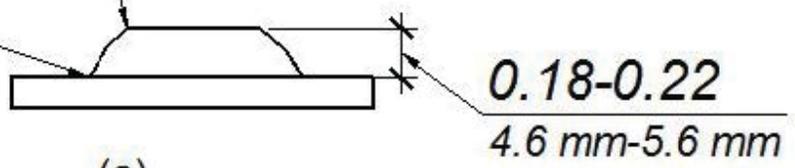
11B-705.1.1.5 Color. Detectable warning surfaces shall be yellow conforming to FS 33538 of Federal Standard 595C.

Exception: Detectable warning surfaces at curb ramps, islands or cut-through medians shall not be required to comply with Section 11B-705.1.1.5.

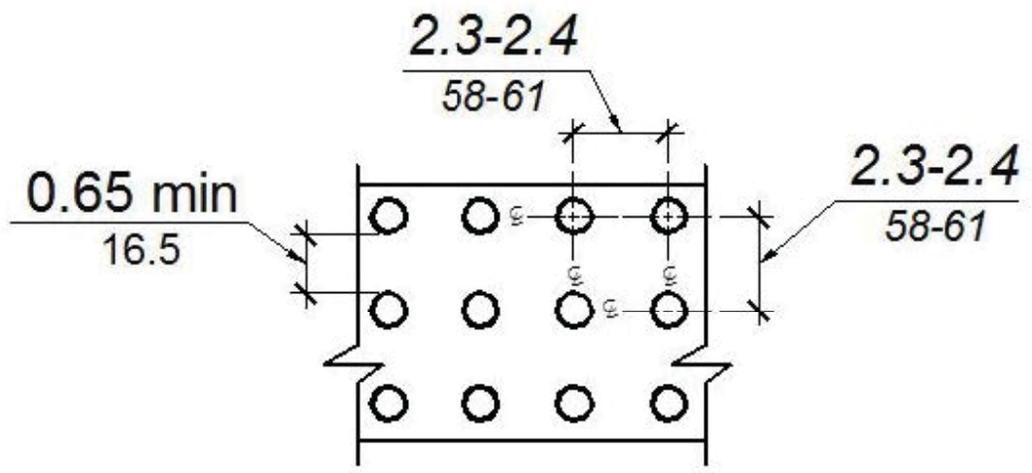
APPELLANT'S EXHIBIT 9

top diameter of
 $0.45-0.47$
 $11.4\text{ mm}-11.9\text{ mm}$

base diameter of
 $0.9-0.92$
 $22.9\text{ mm}-23.4\text{ mm}$



(a)
elevation
(enlarged)



(b)
plan

APPELLANT'S EXHIBIT 10

SANTA BARBARA MUNICIPAL CODE

**A Codification of the Ordinances
of the
City of Santa Barbara, California**

Last Updated April 28, 2016

8.04.020 Amendments to California Fire Code.

In response to local climatic, geological and topographical conditions, the 2013 California Fire Code, as adopted by reference in Section 8.04.010, is amended as follows:

G. Chapter 1, Division II of the California Fire Code is amended by adding Section 114 “Building and Fire Code Board of Appeals” to read as follows:

Section 114. Building and Fire Code Board of Appeals

In order to hear and decide appeals of orders, decisions or determinations made by the Fire Code Official or Building Official relative to the application and interpretations of the technical codes, there shall be and is hereby created a Building and Fire Code Board of Appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and building service equipment and who are not employees of the jurisdiction. The Fire Code Official or Building Official shall be an ex officio member and shall act as secretary to said Board but shall have no vote upon any matter before the Board. The Building and Fire Code Board of Appeals shall be appointed by the City Council and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Fire Code Official or Building Official.

114.1.1 Alternatives. The Board may consider any alternate provided that it finds that the proposed design, material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in accessibility, suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation.

114.1.2 Appointments. The City Council shall appoint individuals to an eligibility list. Appeals shall be scheduled before five members selected from the eligibility list by the Community Development Director or the Fire Code Official as may be appropriate based on the subject matter.

114.1.3 Quorum. It shall take a quorum of three members to hear an appeal, and majority vote of the Board convened to sustain an appeal.

114.1.4 Chairperson. The chairperson shall be selected by the convened Board. The chairperson shall maintain order and conduct the meeting in accordance with Sections 114.1.7 and 114.1.8.

114.1.5 Meetings. The Board shall meet when needed to hear an appeal or when needed to transact business of the Board. Either the Chief Building Official or the Fire Code Official or their designee shall act as Secretary of the Board.

114.1.6 Board Decisions. The decision of the Building and Fire Code Board of Appeals shall be final on all matters of appeals and shall become an order to the Appellant, Building Official or Fire Code Official as may be appropriate.

114.1.7 Procedures. The Chief Building Official or Fire Code Official may use the procedure for Conduct of Hearing Appeals in accordance with Chapter 6 of the Uniform Code for the Abatement of Dangerous Buildings for appeals. The Board may elect alternate procedures by a unanimous vote of the convened Board as they may deem appropriate.

114.1.8 Procedural Rules. Appeal hearings shall be conducted substantially in accordance with the following format:

1. The Chairperson shall call the meeting to order.
2. The Chairperson shall note the Board members present for the minutes.
3. The Chairperson shall recognize the Chief Building Official or Fire Code Official for presentation of the appeal. The Chief Building Official or the Fire Code Official shall read his/her recommendation to the Board. This recommendation shall be the standing motion before the Board.
4. The Chairperson shall recognize the Appellant for presentation of rebuttals.
5. All witnesses must be called by either the Appellant or the Chief Building Official or the Fire Code Official and may be questioned.
6. After a motion to amend, accept, or deny the standing motion has been made and seconded, the Board may entertain comments from the public.
7. The Board shall vote on the standing or amended motion.
8. The Chairperson shall adjourn the meeting at the end of business.
9. The Secretary shall prepare minutes for the record and shall serve as custodian of case records and said minutes

22.04.020 Amendments to California Building Code.

The California Building Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.020.

D. Section 113 “Board of Appeals” is deleted in its entirety and readopted to read as follows:

113. Board of Appeals. In order to hear and decide appeals of orders, decisions or determinations made by the Fire Code Official or Building Official relative to the application and interpretations of the technical codes, there shall be and is hereby created a Building and Fire Code Board of Appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and building service equipment and who are not employees of the jurisdiction. The Fire Code Official or the Building Official shall be ex officio members and shall act as secretary to said Board but shall have no vote upon any matter before the Board. The Building and Fire Code Board of Appeals shall be appointed by the City Council and shall hold office at its pleasure.

The Board shall abide by the rules and procedures in Appendix B of this code and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Fire Code Official or Building Official. This Board shall serve as the appeals board defined in Section 1.8.8 and 1.9.1.5.

R. Appendix B “Board of Appeals” is deleted in its entirety and readopted to read as follows:

B101.1 Application. The application for appeal shall be filed on a form obtained from the Building Official within 20 days after the notice was served.

B101.2 Membership of the Board. The City Council shall appoint individuals to an eligibility list. Appeals shall be scheduled before five members selected from the eligibility list by the Community Development Director or the Fire Chief as may be appropriate based on the subject matter.

B101.2.1 Quorum. It shall take a quorum of three members to hear an appeal and a majority vote of the Board convened to sustain an appeal.

B101.2.2 Chairperson. The chairperson shall be selected by the convened Board. The chairperson shall maintain order and conduct the meeting in accordance with Sections B102 and B102.1.

B102 Rules and Procedures. The Chief Building Official or Fire Chief may use the procedure for “Conduct of Hearing Appeals” in accordance with Chapter 6 of the Uniform Code for the Abatement of Dangerous Buildings for appeals. The Board may elect alternate procedures by a unanimous vote of the convened Board as they may deem appropriate.

B102.1 Procedures. Appeal hearings shall be conducted substantially in accordance with the following format:

1. The Chairperson shall call the meeting to order.
2. The Chairperson shall note the Board members present for the minutes.
3. The Chairperson shall recognize the Chief Building Official or Fire Chief for presentation of the appeal. The Chief Building Official or the Fire Chief shall read his/her recommendation to the Board. This recommendation shall be the standing motion before the Board.
4. The Chairperson shall recognize the Appellant for presentation of rebuttals.
5. All witnesses must be called by either the Appellant or the Chief Building Official or the Fire Chief and may be questioned.
6. After a motion to amend, accept, or deny the standing motion has been made and seconded, the Board may entertain comments from the public.
7. The Board shall vote on the standing or amended motion.
8. The Chairperson shall adjourn the meeting at the end of business.
9. The Secretary shall prepare minutes for the record and shall serve as custodian of case records and said minutes.

B102.2 Meetings. The Board shall meet when needed to hear an appeal or when needed to transact business of the Board. Either the Chief Building Official or the Fire Chief or their designee shall act as Secretary of the Board.

B103 Alternatives. The Board may consider any alternate provided that it finds that the proposed design, material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in accessibility, suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation.

B104 Board Decisions. The decision of the Building and Fire Code Board of Appeals shall be final on all matters of appeals and shall become an order to the Appellant, Building Official or Fire Chief as may be appropriate.

22.04.025 Amendments to California Residential Code.

The 2013 California Residential Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.025.

C. Section R112.1 “General” of Section R112 “Board of Appeals” is amended to read as follows:
R112.1 General. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code as amended by the City of Santa Barbara in Section 22.04.020 of this Code.

22.04.030 Amendments to California Plumbing Code.

The 2013 California Plumbing Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.030.

A. Section 102.3 “Board of Appeals” is hereby deleted in its entirety and readopted to read as follows:

102.3 Board of Appeals. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code, as amended by the City of Santa Barbara in Section 22.04.020.

22.04.040 Amendments to California Mechanical Code.

The 2013 California Mechanical Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.040.

A. Section 108 “Board of Appeals” is hereby deleted in its entirety and readopted to read as follows:

108 Board of Appeals. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code as amended by the City of Santa Barbara in Section 22.04.020.

22.04.050 Amendments to California Electrical Code.

A. The 2013 California Electrical Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.050. Article 89.108.8 of the California Electrical Code is deleted and readopted to read as follows:

89.108.8 Appeals Board. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code as amended by the City of Santa Barbara in Section 22.04.020.

22.04.070 Amendments to 2012 International Property Maintenance Code.

The 2012 International Property Maintenance Code, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.060.

A. Section 101.1 “Title” is amended to read as follows:

C. Section 111 “Means of Appeal” is deleted and readopted to read as follows:

111 Means of Appeal. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code, as amended by the City of Santa Barbara in Section 22.04.020.

22.04.080 Amendments to 1997 Uniform Code for Abatement of Dangerous Buildings.

A. The 1997 Uniform Code for Abatement of Dangerous Buildings, as adopted by reference pursuant to this Chapter, is amended as set forth in this Section 22.04.080. Section 205 is deleted and readopted to read as follows:

205 Board of Appeals. Appeals of orders, decisions, or determinations made by the Authority Having Jurisdiction shall be addressed in accordance with the provisions of Section 113 and Appendix B of the California Building Code, as amended by the City of Santa Barbara in Section 22.04.020. (Ord. 5639, 2013.)

22.18.040 Appeals.

Property owners appealing the determination that their building is potentially hazardous must do so in writing to the Building and Fire Code Board of Appeals ("Board") in accordance with Section 204 of the Uniform Administrative Code. An appeal shall be filed with the City Clerk within 180 days of the service date for the Notice of Building Classification. Each appeal request shall be accompanied by a fee in an amount set by resolution of the City Council and shall include verification that (i) construction began after July 24, 1947, (ii) materials used were other than unreinforced masonry, or (iii) the building is in compliance with requirements outlined in Sections A106 through A108 of the Uniform Code for Building Conservation, as demonstrated by a complete structural analysis in accordance with those sections. The Chief of Building and Safety shall review all materials used in support of the appeal prior to scheduling the appeal and may reclassify such buildings based upon the information submitted. All decisions and appeals shall be governed by standards and procedures established by the Community Development Director and all decisions of the Board shall be final. (Ord. 4984, 1996; Ord. 4586, 1989.)

APPELLANT'S EXHIBIT 11

5. Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

[A] 104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building 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. *[DSA-SS & DSA-SS/CC, OSHPD 1, 2 & 4] Alternative system shall satisfy ASCE 7 Section 1.3, unless more restrictive requirements are established by this code for an equivalent system.*

[DSA-SS & DSA-SS/CC, OSHPD 1, 2 & 4] Alternative systems also satisfy the California Administrative Code, Section 7-104.

[A] 104.11.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

[A] 104.11.2 Tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

104.11.3 Peer review. *[OSHPD 1 & 4] When peer review is required, it shall be performed pursuant to Section 3414A.*

104.11.4 Earthquake monitoring instruments. *[OSHPD 1 & 4] The enforcement agency may require earthquake monitoring instruments for any building that receives approval of an alternative system for the Lateral Force Resisting System (LFRS). There shall be a sufficient number of instruments to characterize the response of the building during an earthquake and shall include at least one tri-axial free field instrument or equivalent. A proposal for instrumentation and equipment specifications*

[A] 104.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building 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, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

[A] 104.10.1 Flood hazard areas. The building official shall not grant modifications to any provision required in flood hazard areas as established by Section 1612.3 unless a determination has been made that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section 1612 inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.

APPELLANT'S EXHIBIT 12

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Volume 1



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SCOPE AND ADMINISTRATION

[A] 104.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the *building 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, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

❖ The building official may amend or make exceptions to the code as needed where strict compliance is impractical. Only the building official has authority to

SCOPE AND ADMINISTRATION

grant modifications. Consideration of a particular difficulty is to be based on the application of the owner and a demonstration that the intent of the code is accomplished. This section is not intended to permit setting aside or ignoring a code provision; rather, it is intended to provide acceptance of equivalent protection. Such modifications do not, however, extend to actions that are necessary to correct violations of the code. In other words, a code violation or the expense of correcting one cannot constitute a practical difficulty.

[A] 104.10.1 Flood hazard areas. The building official shall not grant modifications to any provision required in *flood hazard areas* as established by Section 1612.3 unless a determination has been made that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section 1612 inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
5. Submission to the applicant of written notice specifying the difference between the *design flood elevation* and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the *design flood elevation* increases risks to life and property.

❖ To be consistent with the requirements of the National Flood Insurance Program (NFIP), any modifications requested by an applicant that would reduce the requirements related to flood-resistant construction must be handled by the building official by granting a variance. The NFIP requires that such modifications be carefully considered and the procedures for that consideration are set forth in federal regulations [44 C.F.R. §60.6(a)].

[A] 104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where the *building 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 code is not intended to inhibit innovative ideas or technological advances. A comprehensive regulatory document, such as a building code, cannot envision and then address all future innovations in the industry. As a result, a performance code must be applicable to and provide a basis for the approval of an increasing number of newly developed, innovative materials, systems and methods for which no code text or referenced standards yet exist. The fact that a material, product or method of construction is not addressed in the code is not an indication that such material, product or method is intended to be prohibited. The building official is expected to apply sound technical judgement in accepting materials, systems or methods that, while not anticipated by the drafters of the current code text, can be demonstrated to offer equivalent performance. By virtue of its text, the code regulates new and innovative construction practices while addressing the relative safety of building occupants. The building official is responsible for determining if a requested alternative provides the equivalent level of protection of public health, safety and welfare as required by the code.

[A] 104.11.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

❖ When an alternative material or method is proposed for construction, it is incumbent upon the building official to determine whether this alternative is, in fact, an equivalent to the methods prescribed by the code. Reports providing evidence of this equivalency are required to be supplied by an approved source, meaning a source that the building official finds to be reliable and accurate. The ICC Evaluation Service is an example of an agency that provides research reports for alternative materials and methods.

[A] 104.11.2 Tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures. Tests shall be performed by an *approved agency*. Reports of such tests shall be retained by the *building official* for the period required for retention of public records.

❖ To provide the basis on which the building official can make a decision regarding an alternative material or method, sufficient technical data, test reports and documentation must be provided for evaluation. If

SCOPE AND ADMINISTRATION

evidence satisfactory to the building official indicates that the alternative material or construction method is equivalent to that required by the code, he or she may approve it. Any such approval cannot have the effect of waiving any requirements of the code. The burden of proof of equivalence lies with the applicant who proposes the use of alternative materials or methods.

The building official must require the submission of any appropriate information and data to assist in the determination of equivalency. This information must be submitted before a permit can be issued. The type of information required includes test data in accordance with referenced standards, evidence of compliance with the referenced standard specifications and design calculations. A research report issued by an authoritative agency is particularly useful in providing the building official with the technical basis for evaluation and approval of new and innovative materials and methods of construction. The use of authoritative research reports can greatly assist the building official by reducing the time-consuming engineering analysis necessary to review these materials and methods. Failure to substantiate adequately a request for the use of an alternative is a valid reason for the building official to deny a request. Any tests submitted in support of an application must have been performed by an agency approved by the building official based on evidence that the agency has the technical expertise, test equipment and quality assurance to properly conduct and report the necessary testing. The test reports submitted to the building official must be retained in accordance with the requirements of Section 104.7.

APPELLANT'S EXHIBIT 13

EQUIVALENT FACILITATION. *The use of designs, products or technologies as alternatives to those prescribed, resulting in substantially equivalent or greater accessibility and usability.*

Note: *In determining equivalent facilitation, consideration shall be given to means that provide for the maximum independence of persons with disabilities while presenting the least risk of harm, injury or other hazard to such persons or others.*

APPELLANT'S EXHIBIT 14



CITY OF BAKERSFIELD
 BUILDING DEPARTMENT
 Phil Burns • Building Director
 1715 Chester Avenue, Bakersfield, Ca 93301
 (661) 326-3720

ALTERNATIVE AND MODIFICATION TO BUILDING STANDARDS

1. Modification of Building Standards – California Building Code Appendix 104.10

Intent: The provision of California Building Code Appendix Section 104.10 permit that Building Official/Building Director to make modifications to the requirements of the code if there is a finding that the strict application of the code is impractical and, furthermore, that the modification is in conformity with the intent and purpose of the California Building Code currently in effect.

2. Alternative Materials, Alternate Designs and Methods of Construction – California Building Code Appendix Section 104.11

Intent: To encourage the use of state-of-the-art concepts in construction and materials which currently are not covered by the code, however, do meet the performance intended by the California Building Code in effect at that time.

3. Fee Required:

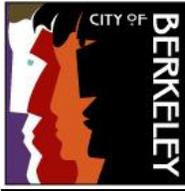
Each request made under California Building Code Appendix Section 104.10 or 104.11 requires the applicant to pay a research and processing fee in the amount of \$100.00 (additional fee may be charged depending on the complexity of request).

4. Request Form Submittal Requirements and Process:

- Applicants must file a form, “Request for Modification of Building Standards” or “Request for Alternate Material or Methods of Construction.” (Forms are available at the Building Department Counter)
- It is the applicant’s responsibility to submit substantiating data and evidence to show that the alternate is in fact equivalent to the performance required by the California Building Code Section. Test report shall be those required by the California Building Code Section shall have been performed by an International Code Conference (ICC) approved testing agency.
- Request for a modification shall clearly justify how the proposed modification is in conformity with the intent and purpose of the California Building Code Section. The code does not allow the Building Official/Building Director to issue a variance, nor waive building standard requirements.
- Attach drawing (floor plan, details, etc.) for clarification of subject request.
- A fee in the amount of \$100.00 shall be paid at the time of submittal.
- The Plans Checker in charge of the project will be responsible for insuring that each request is processed in a timely manner. Request may be reviewed by the Fire Department and other department staff as necessary. The Plans Checker shall review each request and provide detailed comments with a recommendation for approval or denial, and submit to Building Director.
- The details of any action granting an approval of an alternate or modification by the Building Director shall be recorded and made as a part of the approved set of construction plans.

The action of the Building Director will be applicable only to the project reviewed under the subject case and non-binding to any similar future requests.

For any questions on this new procedure, please feel free to contact the Plan Check Staff.



Planning and Development Department
Building and Safety Division

CITY OF BERKELEY
Planning and Development, Building & Safety Division
2120 Milvia Street
Berkeley, CA 94704
510.981.7440

Guidelines for Approval of Alternative Materials, Design and Methods of Construction

In order to formalize a more conventional approach for developing and reviewing *Applications for Alternative Materials or Methods of Construction* under the provisions of the 2010 California Building Code Section 104.11 and the 2010 California Residential Code Section R104.11, the following guidelines have been established.

1. In order to request the Building Official's review and approval of any Alternate Method(s) of Construction, the applicant and/or registered design professional shall fill out an *Application for Alternate Materials or Methods of Construction*. The form is available at the Permit Service Center or on-line at <http://www.ci.berkeley.ca.us>. Select: "Forms & Applications", then "Building & Safety", then "Application for Alternate Materials or Methods of Construction". The request must be accompanied by the necessary additional documentation and must:
 - a. Describe all elements of the *Alternative* (i.e., materials, products, and methods of construction) and explain why request is being submitted.
 - b. Specify the code provision(s) for which the *Alternative* is requested.
 - c. Compare the proposed *Alternative* with the code requirements in terms of suitability, effectiveness, quality, durability, fire resistance, safety, structural strength, and any other impacts affecting the building or users of the building.
 - d. Provide documentation for evaluation methods, test reports, recognized standards, and expert opinions utilized in the request.
 - e. Specify when and where special inspection and testing are required at the job site and describe the verification procedures for field acceptance for demonstrating compliance.
2. The Application and supporting documentation shall be dated, signed, and stamped by the registered design professional.
3. The registered design professional shall coordinate construction documents to reflect the alternative proposal and shall be responsible for incorporating all the specifics of the proposal and conditions of approval into the reproducible drawings.
4. The Building Official and/or Fire Marshal shall review the proposed *Alternative* and supporting documentation for conformance with the adopted codes, ordinances, and regulations. If the City Officials do not have the expertise on staff to make a thorough and competent review, a third party or peer review process may be utilized. The cost of any such review shall be paid by the applicant, as specified in the City of Berkeley Fee Schedule.

G:\CODES\ADMIN\FORMS\Guidelines for Completing Alternate Methods and Materials Form May102012.docx



CITY OF CONCORD
APPLICATION FOR ALTERNATE MATERIAL,
DESIGN, OR METHOD OF CONSTRUCTION

REFER TO THE ATTACHED INFORMATION GUIDELINE.
Complete sections 1, 2 and 3 below.
PLEASE PRINT IN INK OR TYPE.

FOR STAFF USE ONLY

Application # _____
Number of Items _____ Fee Due _____
Distribution: Owner _____ Petitioner _____ Plan Check _____ Inspector _____ Fire _____
Other _____

SECTION 1: ADDRESSES (Job Site, Owner, and Petitioner)

SITE ADDRESS _____

Table with 2 columns: OWNER, PETITIONER. Rows: NAME, ADDRESS, CITY STATE ZIP, DAYTIME PHONE, E-MAIL ADDRESS.

SECTION 2: REQUEST (Submit plans, if necessary, to illustrate request. Additional sheets or data may be attached.) Attachments

SECTION 3: JUSTIFICATION / FINDINGS OF EQUIVALENCY / CODE SECTIONS

PETITIONER'S SIGNATURE POSITION DATE

NOTE: Appeal of the determination below may be submitted to the Building Board of Appeals. A signature, statement of owner or applicant, statement of reasons for appeal, and filing fees are required. Please refer to the attached Information Guideline for the appeal procedure.

FOR STAFF USE ONLY

APPLICABLE ACTION:

- Request requires concurrence from the Fire Marshal?... Yes No
Request lessens the fire protection requirements? Yes No
Request lessens the structural integrity? Yes No

FOR FIRE MARSHAL USE ONLY

- Approved Disapproved Written Comments Attached

SIGNATURE

DATE

DETERMINATION. This request is: Granted Granted with Conditions of Approval Denied

CONDITIONS OF APPROVAL:

SIGNATURE PRINT NAME POSITION DATE



Application for Alternate Materials, Design and Methods of Construction

INFORMATION GUIDELINE

April 2015

City of Concord • Building Division • 1950 Parkside Drive, MS/51 • Concord, CA 94519 • (925) 571-3107 • Fax (925) 680-4877

Basis for Approval

For the Building Official and Fire Marshal or their designated agent to approve a request for modification or a request for alternate material, design, or method of construction, he/she must determine that special, individual reasons exist that make compliance with the strict letter of the Code impractical and that at least equivalency in life safety and fire protection is provided. The resulting condition must be in conformance with the spirit and purpose of the Code provisions involved and that such modification does not lessen fire protection, structural integrity or occupant safety. The applicant must provide sufficient information with this application to allow the above evaluation to be made.

Requirements for Submittals

The applicant/design professional shall prepare a Written Report that describes the alternate proposal along with the applicable data listed below. For other than R-3 and R-3.1 occupancies, such report shall be prepared by a design professional licensed by the State of California:

- State specific code provisions for which alternative is requested and why request is being submitted.
- Describe by code section those provisions for which alternative is desired.
- Compare the proposed alternative versus the code requirements in terms of structural strength, suitability, effectiveness, fire resistance, safety, and health impacts affecting the building or user of the building.
- Demonstrate that the proposed alternative is compatible with balance of code requirements.
- When applicable, specify how authoritative consensus document(s) are used to substantiate proposal.
- Provide assumptions, references, and documentation of evaluation methods utilized. This includes intended use, input data, anticipated outputs, and limitations of computer models and other analytical tools or methods.
- Specify when and where special inspection and testing are required and the standards of acceptance for demonstrating compliance. Show how the proposed alternate, if accepted, will be identified on the job site.
- Where land use restrictions and building setbacks are required, deed restrictions may be an appropriate method to ensure continued compliance and may be required as part of the conditions of approval if granted.
- State how and where alternate proposal is incorporated within construction plans and prepare plan amendments as necessary. The design professional has the responsibility to coordinate all construction documents and ensure compatibility between documents.
- The report and design documents shall be dated, signed and stamped by the design professional according to the plan submittal procedure.
- For alternate methods of design requests, the applicant shall set performance criteria for his design. Performance criteria shall be reviewed, amended and approved by the Building Official prior to start of design.

Alternative Design Review

The Building Official has the responsibility to review design submittals for compliance to the adopted codes and procedures. If the Building Official does not have the expertise on staff to make a thorough and competent review, the Building Official may select a consultant that possesses the necessary qualifications to perform a third-party or peer review. Cost of peer review shall be paid for by applicant to the Building Division prior to commencing the review.

- Verify that all applicable information and justifications listed above as requirements for submittals is received and verify that evaluation and design methods used by designer are appropriate to the alternative proposed.
- Verify products are being used in accordance with their listing conditions as required by recognized listing agencies. If not available, require documentation and/or testing to demonstrate compliance with intent of code and intended use.
- Evaluate performance of material and possible flaws that could affect performance of material in its installed state.

Approval of Alternate Materials, Design, and Methods of Construction

- The reviewer shall document that the submittal has been reviewed and accepted as meeting the alternative material, design or method of construction provisions of the code. If the Building Official is not satisfied that the applicant has met the conditions, then the applicant will be notified in writing of the applicable reason(s).

Inspection

The alternate proposal as approved in the construction documents must be verified by inspection, and, where necessary, testing as follows:

- To verify that alternate materials, systems and fabricated products comply with accepted design criteria and the manufacturer's and engineer's or architect's installation procedures, inspectors should check product labeling, certification, quality assurance processes and testing, as applicable.
- When appropriate, an approved third party quality assurance inspection and testing service may be required for periodic, continuous, or complex inspection and testing activities. This is intended to verify that construction complies with the code and the approved plans.

Information on Procedure for Appeal from a Determination or Action by the Building Official or Fire Marshal

Appeal from the determination or action of the Building Official or designated agent may be made to the Building Board of Appeals. To appeal, the applicant must provide special individual reasons that make compliance with the strict letter of the Code impractical.

Appeals must be submitted on the Appeal Form available at Permit Counter accompanied by the proper fee. You will be notified in writing of the appeal hearing's time and date.

	<p>City of Long Beach Department of Development Services Building and Safety Bureau</p> <p>Code Modification and Alternate Material</p>	<p>Information Bulletin</p> <p>BU-001</p> <p>Eff: 01-01-2011 Rev: 02-05-2014</p>
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The construction and use of buildings or structures is governed by specific standards and regulations set forth in the California Building Standards Code and Long Beach Municipal Code (LBMC). LBMC §18.03.020.A directs the Building Official to enforce the provisions of Title 18, the municipal code, or other ordinances of the City, or laws and statues of the State. These provisions place responsibility upon the Building Official for enforcement. While these are prescriptive requirements demanding full compliance, occasions can arise where modifications to the code or alternate forms of design or construction are warranted. The LBMC empowers the Building Official to grant code modifications or approve the use of alternate materials, design, and methods of construction and equipment not specifically prescribed by the California Building Standards Code. The following information will highlight the steps involved for seeking a request:

I. APPLICATION

All requests for code modification or the use of alternate materials, design and methods of construction, and equipment must be submitted on an application form provided by the Department. The application is available at:

Long Beach Development Services
 Permit Center
 333 W. Ocean Blvd., 4th Floor
 Long Beach, CA 90802

Alternatively, the application form may be obtained on the Department's website at:
www.lbds.info

The application must be completed by the petitioner (which may be the building owner or company officer, architect, engineer, etc.) and signed by the building owner or company officer. For requests that are classified as Category 1 (see Section VI), signature from the petitioner in lieu of the building owner or company officer is acceptable. Where multiple issues exist, a separate application must be submitted for each issue. This will permit approval of certain items in the event it is necessary to deny one or more of a series of issues.

II. MAKING THE REQUEST

The request portion of the application form must contain a clear statement of the issue(s) that the Building Official is requested to address. The section(s) of the applicable code or standard that is the subject of the appeal must be cited. The issue(s) may be an interpretation or application of a code provision or a finding on the equivalency to code requirements of an alternate materials, design and methods of construction and equipment.

City of Long Beach
Information Bulletin BU-001 • Code Modification and Alternate Material

All applications shall be submitted along with a request letter. The request letter shall describe the scope of the project, elaborate on the reason, and justification for the granting of the request. In addition, any substantiating and supporting documents, details, or plans must be included with the completed application. An initial non-refundable filing fee to review the application shall be collected when the application packet is submitted. The request letter shall be addressed to:

Building Official
Department of Development Services
Building and Safety Bureau
333 W. Ocean Blvd., 4th Floor
Long Beach, CA 90802

III. JUSTIFICATION OR FINDING OF EQUIVALENCY

The justification portion of the application form and the submitted request letter must state the basis for the request and substantiate the claim of impracticality or hardship for the purpose of code modification or finding of equivalency to code requirements for the purpose of proposed alternate materials, design and methods of construction and equipment. Furthermore, a registered design professional licensed in the State of California must justify applications that involve issues related to fire-life safety or structural design in the request letter. LBMC §18.03.060.C authorizes the Building Official to require the submission of test data as proof of compliance at the applicant's expense whenever there is insufficient evidence of compliance with any of the provisions of this title or evidence that any material or construction does not conform to the requirements of this title. Plans submitted in support of the request must clearly indicate the location, nature, extent, and details of the subject of the appeal. The submitted plans must also be of sufficient size to be suitable for filing and distribution and should be no smaller than 8.5 x 11 or no larger than 11 x 17 inch size.

CODE MODIFICATION:

The requirements and prerequisites for granting a modification are enumerated in LBMC §18.03.050.A. This section provides in pertinent part as follows:

“Whenever there are practical difficulties involved in carrying out the provisions of this title, the Building Official shall have the authority to grant modifications for individual cases, upon the application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this title impractical and the modification is in compliance with the intent and purpose of this title and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements.”

The justification given must specifically address that there are practical difficulties involved, a special individual reason must exist, and fire protection or structural safety are not diminished in order for the Building Official to consider granting a modification. The details of any action granting modifications shall be recorded and kept on file with the Building and Safety Bureau (“Bureau”).

ALTERNATE MATERIALS, DESIGN AND METHODS OF CONSTRUCTION AND EQUIPMENT:

The requirements and prerequisites for granting a request for alternate materials, design and methods of construction, and equipment are enumerated in LBMC §18.03.060.A. This section provides in pertinent part as follows:

“The provisions of this title are not intended to prevent the installation of any materials or to prohibit any design or method of construction not specifically prescribed by this title, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this title, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this title in quality, strength, effectiveness, fire resistance, durability and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.”

It is prudent and proper for the Code to accommodate new technologies that were not considered in the formulation of prescriptive requirements. Indeed, a failure to do so would constitute an arbitrary prohibition of new products or methods without due consideration of merit. The justification or finding of equivalency given must specifically address the cited criteria (i.e., quality, strength, effectiveness, fire resistance, durability and safety). Additional information substantiating claims of equivalence such as code analyses, test reports, engineering analysis as well as other background information may be compiled in a report used as a part of the justification. Copies of documents, in part or in their entirety, referenced in the reports that are not commonly available may need to be provided.

IV. REJECTION OF APPLICATION

Applications that have not been thoroughly and clearly completed and applications that have not been submitted with the required fee will be rejected. Additionally, applications that do not contain the request letter nor include sufficient documentations or necessary plans or analyses that substantiate claims of equivalence and compliance with the code intent will also be rejected.

V. PROCESSING TIME AND DEADLINES

Applications may be submitted for consideration at any time during the design process as well as during the plan review or during the construction inspection process. There is no specific deadline for submittal of requests and all submittals will be reviewed on a first come first served basis. Most applications will be processed within four (4) weeks of the initial submittal date with a written response returned at the culmination of the review process. Where additional information or clarification will be necessary for the review, staff will contact applicants. For projects that are in high-rise buildings, Group A, E, H, I, L and R occupancies and other applications listed in the California Building Standards Code regulated by the Office of the State Fire Marshal, the Long Beach Fire Department's input will be required for request related to fire-life safety.

VI. FEES

An initial non-refundable filing fee to review applications is based on an hourly rate or fraction thereof. This fee must be collected and paid with all applications requesting action by the Building Official on a proposed modification or use of alternate material, design, or construction method. A supplemental hourly fee may be charged after the initial filing fee is paid if further review is deemed necessary due to the complexity of the issue or the nature of the submittal. The initial filing fees charged for each application are categorized below based upon the level of complexity of the issues involved as determined by the Bureau. To view the current hourly rate, please see the Master Fee Schedule at www.lbds.info.

Category 1. The minimum initial filling fee is based on 1 hour of review time and will be charged for issues of minimal complexity and/or have been evaluated frequently on other cases. Surcharges apply and will be added to the filing fee.

Category 2. The minimum initial filling fee is based upon 3 hours of review time and will be charged for issues of moderate complexity and/or have been evaluated infrequently. Surcharges apply and will be added to the filing fee.

Category 3. The minimum initial filling fee is based upon 5 hours of review time and will be charged for issues of higher complexity and/or have not been evaluated previously. Surcharges apply and will be added to the filing fee.

Development Services Permit Center staff will determine the initial filing fee category. If a second opinion is requested, please ask for a supervisor to assist in this determination. Where Long Beach Fire Department's input is required (see Section V), an additional review fee must be collected and paid with all applications submitted.

VII. APPROVAL OR DENIAL OF REQUEST

If approval is granted for a particular request, the applicant will be notified in writing the reason and conditions, if any, for the approval. The applicant may be requested to incorporate the approval letter issued by the Bureau, the request letter, and application submitted, and any reports or documents used to substantiate the request onto the plans. Additionally, it is expected that plans submitted for review and approval by plan review staff will include all alternative features and items proposed in the request as well as any conditions required by the Building Official in granting the approval.

If the Building Official denies a request, the applicant will be notified in writing with the reasons for the disapproval clearly outlined. Applicants wishing to appeal the decision of the Building Official may do so by applying for consideration by the Board of Examiners, Appeals, and Condemnation. Please refer to the "Appeals and Condemnation" or "Disabled Access Regulation Appeals" information bulletins as well as "Application for Examiners, Appeals and Condemnation Board Hearing" or "Application for Disabled Access Appeals Board Hearing" forms for additional information. A record of the denial will be maintained in records associated with the project or applicable permit.

VIII. EXPIRATION OF REQUEST

Pursuant to LBMC §18.03.050.B or §18.03.060.D, the rights and privileges granted by the Building Official shall be voided if the permit is not secured within 12 months of the date the approval was granted or if the permit expires under any of the conditions specified in LBMC §18.04.060 or §18.05.060. However, the Building Official may grant extensions of time if an applicant submits in writing substantial evidence that unusual condition or circumstances precluded the securing of the permit within the allocated time or caused the permit to expire.

IX. FOR ADDITIONAL INFORMATION

Additional information regarding the process of requesting code modification, the use of alternate materials, design and methods of construction and equipment or for submitting to the Board of Examiners, Appeals, and Condemnation or Disabled Access Appeals Board may be obtained by contacting the Development Services Permit Center at (562) 570-5237. Alternatively the information or form may be obtained on the Department's website at www.lbds.info.



City of Long Beach
Department of Development Services
 333 West Ocean Blvd., 4th Floor
 Long Beach, CA 90802
 Phone (562) 570-5237 Fax (562) 570-6753
 Website: www.lbds.info

Application Request For (please check box):

- Modification of Building Ordinances (18.03.050 L.B.M.C.)
 - Alternate Material or Method of Construction (18.03.060 L.B.M.C.)
 - Hardship Exemption or Equivalent Facilitation (19957 H.S.C.)
- H.S.C.= Health and Safety Code, L.B.M.C.= Long Beach Municipal Code*

Code Modification and Alternate Material Request Form

		<i>Department Use Only</i>				
		Reviewed by:	Case #: (Mod. or Alt.)			
			BFFS			
Please print clearly (or typewrite). All portions of application must be completed (where applicable).						
Information	Project Address:		Project #:			
	Petitioner's Name:		Owner's (or Officer's) Name:		Job Status: (Please check box) <input type="checkbox"/> Proposed <input type="checkbox"/> In Plan Check <input type="checkbox"/> Under Construction (Please check box) <input type="checkbox"/> New <input type="checkbox"/> Addition <input type="checkbox"/> Alteration/Remodel <input type="checkbox"/> Change of Use	
	Address:		Address:			
	Phone: ()		Phone: ()			
	Fax: ()		Fax: ()			
	Email:		Email:			
	Present Use:		Proposed Use:			Occupancy:
	Occupant Load:					
	Type of Construction:	# of Stories:	# of Basements:	Building Height:	# of Residential Units:	
	Provide a clear statement of the issue(s) that the Building Official is requested to address. The section(s) of the applicable code or standard that is the subject of the request or appeal must be cited. All applications shall be submitted along with a request letter.					
Request						
Provide justification for the claim of impracticality or hardship for code modification request. Provide finding of equivalency to code requirements for alternate materials, design and methods of construction and equipment. Attach supporting documentations, drawings or reports to substantiate claims made herein.						
Justification						
<p> _____ <i>Signature (see instruction on back of application)</i> <i>Print Name</i> <i>Title/Position</i> <i>Date</i> </p>						
This document is available in an alternative format by request to (562) 570-3807. For an electronic version of this document, visit our website at www.lbds.info .						

INSTRUCTION AND INFORMATION

APPLICATION

Applications must be completed (and typewritten whenever possible) by the petitioner (which may be the building owner or company officer, architect, engineer, etc) and signed by the building owner or company officer. For requests that are classified as Category 1 (see FEES section below), signature from the petitioner in lieu of the building owner or company officer is acceptable. **Where multiple issues exist, separate applications must be submitted for each issue.** This will permit approval of certain items in the event it is necessary to deny one or more of a series of issues.

MAKING THE REQUEST

The request portion of the application form must contain a clear statement of the issue(s) that the Building Official is requested to address. **The section(s) of the applicable code or standard that is the subject of the appeal must be cited.** The issue(s) may be an interpretation or application of a code provision or a finding on the equivalency to code requirements of an alternate materials, design and methods of construction and equipment. **All applications shall be submitted along with a request letter.** The request letter shall describe the scope of the project and elaborate on the reason and justification for the granting of the request. In addition, any substantiating and supporting documents, details, or plans must be included and received by staff at the Development Permit Center.

JUSTIFICATION OR FINDING OF EQUIVALENCY

The justification portion of the application form and the submitted request letter must state the basis for the request and substantiate the claim of impracticality or hardship for the purpose of code modification or finding of equivalency to code requirements for the purpose of proposed alternate materials, design and methods of construction and equipment. Furthermore, a registered design professional licensed in the State of California must justify applications that involve issues related to fire-life safety or structural design in the request letter. The request letter shall be addressed to:

Building Official
 Department of Development Services
 333 W. Ocean Blvd., 4th Floor
 Long Beach, CA 90802

PROCESSING TIME AND DEADLINES

Applications may be submitted for consideration at any time during the design, plan review, or during the construction inspection process. Requests will be reviewed on a first come first served basis. Most applications will be processed **within 4 weeks** of the initial submittal date with a written response returned at the culmination of the review process. Where additional information or clarification will be necessary for the review, staff will contact applicants. For projects that are in high-rise buildings, Group A, E, H, I, L and R occupancies, and other applications regulated by the Office of the State Fire Marshal, the Long Beach Fire Department's input will be required for request related to fire-life safety.

FEES

The initial **non-refundable filing fee** to review applications is based on an hourly rate or fraction thereof. This fee must be collected and paid with all applications requesting action by the Building Official on a proposed modification or use of alternate material, design, or construction method. A supplemental hourly fee may be charged after the initial filing fee is paid when upon further review it is deemed necessary due to the complexity of the issue or the nature of the submittal. The initial filing fees charged for each application are categorized below based upon the level of complexity of the issues involved **as determined by the Department.** Where Fire Department's input is required, an additional review fee must be collected and paid with all applications submitted. To view the current hourly rate, please see the Master Fee Schedule at www.lbds.info.

Category 1. The minimum initial filling fee is based upon 1 hour of review time and will be charged for issues of minimal complexity and/or have been evaluated frequently on other cases. Surcharges apply and will be added to the filing fee.

Category 2. The minimum initial filling fee is based upon 3 hours of review time and will be charged for issues of moderate complexity and/or have been evaluated infrequently. Surcharges apply and will be added to the filing fee.

Category 3. The minimum initial filling fee is based upon 5 hours of review time and will be charged for issues of higher complexity and/or have not been evaluated previously. Surcharges apply and will be added to the filing fee.

FOR ADDITIONAL INFORMATION

To obtain additional information regarding the process of requesting code modification, use of alternate materials, designs, or construction methods, or accessibility appeals or hardship exemptions, or submitting to the Board of Examiners, Appeals, and Condemnation, please contact the Development Permit Center at (562) 570-5237. Additional information may also be obtained at www.lbds.info (refer to Information Bulletin BU-001 / Code Modification & Alternate Material).

FOR DEPARTMENT USE ONLY

<i>Distribution List (please check box)</i>				Received by: _____	# of Hrs. (est.) _____
<input type="checkbox"/> Owner	<input type="checkbox"/> Plan Check	<input type="checkbox"/> Planning	<input type="checkbox"/> Permit Center	Date: _____	# of Hrs. (act.) _____
<input type="checkbox"/> Petitioner	<input type="checkbox"/> Inspection	<input type="checkbox"/> Fire Prevention	<input type="checkbox"/>		Fee \$ _____



ALTERNATE MATERIALS /METHODS CODE MODIFICATIONS REQUEST

PLANNING & BUILDING DEPARTMENT • COUNTY OF SAN LUIS OBISPO
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Permit Number: PMT _____

- REQUEST FOR MODIFICATION TO PROVISIONS OF TITLE 19 OF THE SAN LUIS OBISPO COUNTY CODE**
(See Reverse for Basis for Approval) (Fee \$266.00)
- REQUEST FOR ALTERNATE MATERIAL OR METHOD OF CONSTRUCTION**
(See Reverse for Basis for Approval) (Fee \$266.00)

*For above requests, complete Sections 1, 2 & 3 below
By printing in ink or typing.*

FOR STAFF USE ONLY	
Plan Check # _____	# of Stories _____
Occupancy Classification _____	
Use of Building _____	
Project Status _____	
Construction Type _____	
Verified By _____	
No. of Items _____	
Fees Due _____	
DISTRIBUTION:	
<input type="checkbox"/> Owner	<input type="checkbox"/> Plan Checker
<input type="checkbox"/> Fire	<input type="checkbox"/> Inspector
	<input type="checkbox"/> Petitioner
	<input type="checkbox"/> Other _____

1. JOB ADDRESS	
Site Address _____	Petitioner _____
Owner _____	Address _____
Address _____	City _____ Zip _____
City _____ Zip _____ Phone _____	E-mail _____

2. REQUEST: <u>Submit plans if necessary to illustrate request. Additional sheets or data may be attached.</u>

3. JUSTIFICATION/FINDINGS OF EQUIVALENCY: _____	CODE SECTION: _____

Petitioner's Signature _____	Position _____ Date _____

FOR STAFF USE ONLY	
DEPARTMENT ACTION: In accordance with <input type="checkbox"/> 104.11 CBC (Alternate Materials & Methods) <input type="checkbox"/> 104.10 CBC (Title 19/CBC/IBC Modification)	
<input type="checkbox"/> Concurrence from the Fire Department is required. <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved <input type="checkbox"/> Written Comment Attached	
BY: _____	Date: _____
<input type="checkbox"/> Request (DOES) (DOES NOT) lessen any fire protection requirements	<input type="checkbox"/> Request (DOES) (DOES NOT) lessen the structural integrity
THE REQUEST IS <input type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED (See reverse for appeal information)
CONDITIONS OF APPROVAL: _____	
Signature _____	Position _____ Date _____
Print Name _____	<input type="checkbox"/> Scanned to the PMT number ? <input type="checkbox"/> Scanned to Alt Mat File Folder?

GUIDELINES FOR APPROVAL OF ALTERNATE MATERIALS, DESIGN AND METHODS OF CONSTRUCTION

Basis for Approval

For the Building Official or their designated agent to approve a request for modification or a request for alternate material or method of construction, he/she must determine that special individual reasons exist that make compliance with the strict letter of the Code impractical and that equivalency is provided. The resulting condition must be in conformance with the spirit and purpose of the Code provisions involved and that such modification does not lessen fire protection, structural integrity or occupant safety. The applicant must provide sufficient information with this application to allow the above evaluation to be made. (CBC Chapter 104.10 &.11)

Requirements for Submittals

The applicant design professional shall prepare a Written Report that describes the alternate proposal along with the applicable data listed below:

- State specific code provisions for which alternative is requested and why request is being submitted.
- Describe by code section those provisions for which alternative is desired.
- Compare the proposed alternative versus the code requirements in terms of structural strength, suitability, effectiveness, fire resistance, safety and health impacts affecting the building or user of the building.
- Demonstrate that the proposed alternative is compatible with balance of code requirements. When applicable, specify how authoritative consensus document(s) are used to substantiate proposal.
- Provide assumptions, references, and documentation of evaluation methods utilized. This includes intended use, input data, anticipated outputs, and limitations of computer models and other analytical tools or methods.
- Specify when and where special inspection and testing are required and the standards of acceptance for demonstrating compliance. Show how the proposed alternate, if accepted, will be identified on the job site.
- Where land use restrictions and building setbacks are required. Deed restrictions may be an appropriate method to ensure continued compliance.
- State how and where alternate proposal is incorporated within construction plans and prepares plan amendments as necessary. The design professional has the responsibility to coordinate all construction documents and ensure compatibility between documents.
- The report and design documents shall be dated, signed and stamped by the design professional according to the plan submittal procedure.
- For alternate methods of design requests, the applicant shall set performance criteria for his design. Performance criteria shall be reviewed, amended and approved by the Building Official prior to start of design.

Alternative Design Review/Verification

The Building Official has the responsibility to review design submittals for compliance to the adopted codes and procedures. If the Building Official does not have the expertise on staff to make a thorough and competent review, the Building Official shall select a consultant that possesses the necessary qualifications to perform a third-party or peer review. Cost of peer review shall be paid by applicant to the Building Department prior to commencing the review.

- Verify that all applicable information and justifications listed above as requirements for submittals is received and verify that evaluation and design methods used by designer are appropriate to the alternative proposed.
- Verify products are being used in accordance with their listing conditions as required by recognized listing agencies. If not available, require documentation and/or testing to demonstrate compliance with intent of code and intended use.
- Evaluate performance of material and possible flaws that could affect performance of material in its installed state.
- The reviewer shall document that the submittal has been reviewed and accepted as meeting the alternative materials, design and methods of construction provisions of the code. If the Building Official is not satisfied that the applicant has met the conditions, the request should be denied in writing with the applicable reason(s).

Inspection/Field Verification

The alternate proposal as approved in the construction documents must be verified by inspection, and, where necessary, testing as follows:

- To verify that alternate materials, systems and fabricated products comply with accepted design criteria and the manufacturer's and engineer's installation procedures, inspectors should check product labeling, certification, quality assurance processes, and testing, as applicable.
- When appropriate, an approved third party quality assurance inspection and testing service may be required for continuous and complex inspection and testing activities. This is intended to verify that construction complies with the code and the approved plans.

Information on Procedure for Appeal from a Determination or Action by the Building Official

Appeal from the determination or action of the Building Official or Fire Marshal or their designated agent may be made to the Building Board of Appeals. To appeal, the applicant must provide special individual reasons that make compliance with the strict letter of the Code impractical. Appeals or ratifications pertaining to State Disabled Access Standards require complete evidence to substantiate that the proposed design is equivalent to that prescribed by that standards or that due to legal or physical constraints, compliance with the standards or providing equivalency would create an unreasonable hardship.

Appeals must be submitted on the Appeal Form available at Permit Counter accompanied by the proper fee. You will be notified in writing of the appeal hearing's time and date.

APPELLANT'S EXHIBIT 15

[Cal Health & Saf Code § 18938.5](#)

This document is current for urgency legislation through Chapter 6 of the 2016 Session.

[Deering's California Code Annotated](#) > [HEALTH AND SAFETY CODE](#) > [Division 13. Housing](#) > [Part 2.5. State Building Standards](#) > [Chapter 4. The California Building Standards Code](#)

§ 18938.5. Standards applicable to building permits

- (a) Only those building standards approved by the commission, and that are effective at the local level at the time an application for a building permit is submitted, shall apply to the plans and specifications for, and to the construction performed under, that building permit.
- (b)
 - (1) A local ordinance changing or modifying building standards for residential occupancies, which are published in the California Building Standards Code, shall apply only to an application for a building permit submitted after the effective date of the ordinance and to the plans and specifications for, and the construction performed under, that permit.
 - (2) Paragraph (1) shall not apply to any of the following:
 - (A) A city or county that has been subject to an emergency proclaimed pursuant to the California Emergency Services Act (Chapter 7 (commencing with [Section 8550](#)) of [Division 1 of Title 2 of the Government Code](#)).
 - (B) A permit that is subsequently deemed expired because the building or work authorized by the permit is not commenced within 180 days from the date of the permit, or the permittee has suspended or abandoned the work authorized by the permit at any time after the work is commenced for a period of 180 days.
 - (C) A permit that is subsequently deemed suspended or revoked because the building official has, in writing, suspended or revoked the permit due to its issuance in error, due to the provision of incorrect information, or due to a violation of any of the provisions of the California Building Standards Code.
- (c) No model code made applicable to any additional occupancy shall apply to any project that has been submitted for a building permit prior to the effective date of that model code.

History

Added Stats 1985 ch 577 § 1, effective September 14, 1985. Amended [Stats 1987 ch 1053 § 21](#); [Stats 1992 ch 623 § 1 \(AB 2963\)](#), ch 897 § 29.5 (AB 3515).

Annotations

Notes

Amendments:

1987 Amendment:

Substituted "at the local level" for "within a local agency".

1992 Amendment:

(1) Designated the former section to be subd (a); (2) amended subd (a) by (a) substituting "that" for "which" before "are effective"; (b) substituting "shall apply to the plans and specifications for, and to the" for "apply to" after "submitted,,"; and (c) adding the comma before "that building"; and (3) added subs (b) and (c). (As amended [Stats 1992 ch 897](#), compared to the section as it read prior to 1992. This section was also amended by an earlier chapter, ch 623. See [Gov C § 9605](#).)

Research References & Practice Aids

Hierarchy Notes:

[Div. 13 Note](#)

APPELLANT'S EXHIBIT 16

**INITIAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE AMENDMENT OF THE 2013 CALIFORNIA BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2, CHAPTER 11A “HOUSING ACCESSIBILITY”
(HCD 04/13)**

The Administrative Procedure Act (APA) requires an Initial Statement of Reasons to be available to the public upon request when rulemaking action is being undertaken. The following information required by the APA pertains to this particular rulemaking action:

STATEMENT OF SPECIFIC PURPOSE, PROBLEM, RATIONALE AND BENEFITS:

(Government Code Section 11346.2(b)(1) requires a statement of specific purpose of each adoption, amendment or repeal, the problem the agency intends to address and the rationale for the determination by the agency that each adoption, amendment or repeal is reasonably necessary to carry out the purpose, including the problem the agency intends to address, for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute.)

1) The Public Problem, Administrative Requirement, or Other Circumstance Addressed.

Administrative Requirement: Health and Safety Code Sections 17921, 17922 and 19990 directs the Department of Housing and Community Development (HCD) to propose adoption, amendment or repeal of building standards for the protection of public health, safety and general welfare. Government Code Section 12955.1 provides direction for HCD to propose adoption of building standards necessary to prohibit discrimination in the design and construction of all housing other than publicly funded housing.

2) Specific Purpose

HCD has determined the amendment of the 2013 edition of the California Building Code is needed pursuant to the requirements of Health and Safety Code Section 17921 and Government Code Section 12955.1.

The specific purpose of these regulations is to amend the 2013 California Building Code, Title 24, Part 2, Chapter 11A, of the California Code of Regulations (CCR) for the following programs:

- a) **State Housing Law:** 1. relative to residential occupancies, buildings or structures accessory thereto and as provided in Health and Safety Code Section 17921; 2. relative to California Fair Employment and Housing Act accessibility requirements as provided in Government Code Section 12955.1, except where the application is for public use only.
- b) **Employee Housing Act:** relative to any building or structure or outdoors on premises or property in accordance with Health and Safety Code Section 17040.
- c) **Mobilehome Parks or Special Occupancy Parks:** relative to the use of building systems in or on any permanent buildings, accessory buildings, and structures under the ownership and control of the park operator within the park in accordance with Health and Safety Code Section 18300 for mobilehome parks, and Sections 18865 and 18873 for special occupancy parks.
- d) **Factory-Built Housing Law:** relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with Health and Safety Code Section 19990.

3) Rationale for Necessity

The 2013 California Building Code (CBC) becomes effective on January 1, 2014. HCD has developed amendments to the 2013 CBC, Chapter 11A, to implement, interpret and make specific provisions of state and federal law, including the alignment, where possible, of technical requirements with Chapter 11B (Division of the State Architect – Access Compliance) regarding public use areas and common use areas.

The proposed changes to the 2013 CBC, Chapter 11A, are necessary to provide clarity and consistency for enforcement and application with regard to statewide needs and to address conditions unique to California.

Specific Proposed Regulatory Action: HCD proposes to amend the 2013 California Building Code, Chapter 11A. The rationale for each amendment is listed below.

CHAPTER 11A HOUSING ACCESSIBILITY

1. NOTE 1

SECTION 1101A APPLICATION

NOTE 1:

Rationale: HCD proposes to add Note 1 directly below the “Chapter 11A Housing Accessibility” heading to clarify that compliance with additional accessibility requirements under more than one jurisdiction or law may be required, and to advise that where federal, state, or local laws differ, the more stringent requirements apply. For more details, users are directed to the Joint Statement of the Department of Housing and Urban Development and the Department of Justice issued on April 30, 2013, available at www.hud.gov.

The note serves as an alert that covered multifamily dwellings may be subject to accessibility requirements other than Chapter 11A (such as, Section 504 of the Rehabilitation Act, the 2010 ADA Standards, the Architectural Barriers Act, and/or Title 24, Part 2, Chapter 11B); therefore, it is important to be aware that compliance with each jurisdiction or law is required.

Section: 1101A.1 Scope.

Rationale: HCD proposes to amend the above referenced section. Section 1101A.1 currently provides a reference to Section 1.9.1.1 and the provisions of the Division of the State Architect (DSA) for public accommodations, public use areas and public housing. However, the existing language does not refer directly to Chapter 11B, which contains the technical provisions. The existing language also does not provide a correct reference to Chapter 1. Section 1.9.1.1, as currently referred, addresses publicly funded buildings only; public accommodations are addressed in Section 1.9.1.2. The proposed language, including the editorial modifications, is intended to clarify the application.

HCD also proposes new language clarifying that newly constructed covered multifamily dwellings, which can also be defined as public housing, are subject to the requirements of both Chapter 11A and Chapter 11B. This modification is a result of stakeholder comments expressing a concern that the language in Section 1101A.1 may be interpreted wrongly, requiring all types of public housing, including covered multifamily dwellings, to comply with Chapter 11B only.

In addition, HCD proposes to amend Item 2 and Item 4 clarifying that Chapter 11A applies to new common use areas serving new and existing covered multifamily dwellings. HCD proposes to add “new” to Item 4, and replace “spaces” with “areas” in Item 2 (“common use areas” is a term defined in Chapter 2 and adopted by HCD; the definition clarifies that common use area includes spaces).

Currently Item 2 addresses new common use spaces serving existing covered multifamily dwellings, while Item 4 addresses common use areas serving covered multifamily dwellings. The proposal for clarifying the language is a result of comments received from stakeholders. Many stakeholders expressed concerns that the different terms used in Item 2 and Item 4 (common use spaces and common use areas) create confusion, and that Item 4 lacks clarity whether Chapter 11A is applicable to new or existing common use areas. Item 4 was added in 2006, when Chapter 11A was reorganized with the intent to provide clarity by addressing new common use areas serving new covered multifamily dwellings.

The proposed amendment provides further clarity to the code user. There is no intended change in regulatory effect.

approved. The Commission recommended HCD make this dimension consistent with the federal standards and Chapter 11B.

Section: 1115.6.2.5 Handrail grips. (Repealed)

Rationale: HCD proposes to repeal the above referenced section, reformat, amend and reprint the requirements for handrail grips. The newly proposed regulations (see Sections 1115A.6.2.5, 1115A.6.2.6 and 1115A.6.2.7 below) contain existing language, and incorporate language from the 2010 ADA and Chapter 11B. Only the Note, which provided a reference to Chapter 11B for public housing, is not being brought forward into newly proposed Sections 1115A.6.2.5, 1115A.6.2.6 and 1115A.6.2.7 because the same Note is repeated in 10 other sections in Chapter 11A.

Section: 1115.6.2.5 Handrail gripping surfaces. (New)

Rationale: HCD proposes to adopt the above referenced section. The proposed Section 1114A.6.2.5 contains existing language and incorporates language from the 2010 ADA and Chapter 11B. The new section provides clarity and consistency to the code user.

Section: 1115A.6.2.6 Cross section. (New)

Rationale: HCD proposes to adopt the above referenced section. This new section contains existing language and incorporates language from the 2010 ADA and Chapter 11B. The new proposal provides another option for handrail gripping surface. Since the existing language allows equivalent gripping surfaces, the new option is not intended to change the regulatory effect.

Section: 1115A.6.2.7 Fittings. (New)

Rationale: HCD proposes to adopt the above referenced section. Currently, the same language is contained in existing Section 1115A.6.2.5, which HCD proposes to repeal. The new section provides clarity and consistency with Chapter 11B. There is no intended change in regulatory effect.

**10. SECTION 1116A
HAZARDS ON ACCESSIBLE ROUTES**

Section: 1116A.2 Headroom clearance.

Rationale: HCD proposes to amend the above referenced section. HCD proposes to repeal “nominal” from the text because it conflicts with the general requirement for door height in Section 1126A as well as the general requirement in Section 1116A.2. These two sections require height of 80 inches minimum, not 80 inches nominal.

HCD also proposes to add language clarifying that Section 1126A contains measures for doors, not for doorways and archways less than 24 inches in depth. There is no intended change in regulatory effect.

Section: 1116A.3 Overhanging obstructions.

Rationale: HCD proposes to amend the above referenced section. HCD proposes to adopt a new exception allowing door closers and door stops to be 78 inches minimum above the floor. The proposed amendment provides clarity and consistency with Sections 1003.3.1, 1008.1.1.1 and 11B-307.4.

Section: 1116A.5 Detectable warnings at vehicular areas.

Rationale: HCD proposes to adopt the above referenced section. The proposed language is a result of comments received from stakeholders expressing concerns that detectable warnings at vehicular areas are not addressed in Chapter 11A. This new proposal is consistent with Chapter 11B.

APPELLANT'S EXHIBIT 17

1.1.9 Effective date of this code. Only those standards approved by the California Building Standards Commission that are effective at the time an application for building permit is submitted shall apply to the plans and specifications for, and to the construction performed under, that permit. For the effective dates of the provisions contained in this code, see the History Note page of this code.

APPELLANT'S EXHIBIT 18



City of Santa Barbara Planning Division

30-DAY DEVELOPMENT APPLICATION REVIEW TEAM (DART) COMMENTS – SUBMITTAL #2

October 31, 2013

Dudek
Attn: Ken Marshall
621 Chapala Street
Santa Barbara, CA 93101

SUBJECT: 3714-3744 STATE STREET, MST#2012-00443, APN: 053-300-023

**DART MEETING DATE: Tuesday, November 5, 2013, from 2:00 p.m. to 3:00 p.m.,
630 Garden Street, CD 2nd Floor Conference Room**

Dear Mr. Marshall:

I. INTRODUCTION

The City accepted the development application for the subject project for 30-day review on October 4, 2013. This second DART submittal is in response to staff's incomplete letter dated May 30, 2013. The current project remains essentially the same as the project originally submitted on April 25, 2013, and consists of the demolition of existing site improvements, a lot merger, a four-lot subdivision, the construction of 5,110 square feet of commercial space (1,471 square feet on Lot C, 1,043 square feet on Lot B, and 2,596 square feet on Lot A) and the construction of 72 residential condominiums on Lot D (32 two-bedroom units and 40 three-bedroom units; of which 9 are designated as Inclusionary units).

The information reviewed by the DART included project plans received October 4, 2013; an updated Applicant Letter prepared by Dudek and dated October 4, 2013; a DART response letter prepared by Dudek and dated October 4, 2013; a Tree Protection and Retention Plan prepared by Dudek and dated October 1, 2013; a Supplemental Construction Noise Analysis prepared by Dudek and dated August 2013; a Measure E Memorandum prepared by Dudek and dated October 1, 2013; a Memorandum re: State Street Median Left-Turn Lane prepared by Associated Transportation Engineers and dated September 9, 2013; a copy of a letter to the Parks and Recreation Commission prepared by Investec and dated August 27, 2013; Minutes from the Parks and Recreation Commission meeting of August 28, 2013; a letter from the City regarding tree removal dated August 29, 2013; Town & Country Easement Modification Agreement recorded July 12, 2012; Declaration of Easements, Covenants, Conditions and restrictions dated January 16, 1986; and First Amendment to Declaration of Easements, Covenants, Conditions and restrictions dated May 5, 1986.

30-DAY DEVELOPMENT APPLICATION REVIEW TEAM COMMENTS (#2)
3714-3744 STATE STREET (MST2012-00443)
OCTOBER 31, 2013
PAGE 6 OF 11

9. Staff previously indicated that the project would be conditioned to offer a 20-foot easement for east-west access should adjacent properties redevelop in the future, of which the applicant letter indicates understanding for the issue. Show on the plans how the site intends to accommodate a 20-foot access easement to provide access to adjacent east and west properties.

D. Building & Safety Division

1. Note: All construction projects submitted for a building permit on or after January 1st 2014 shall comply with the new 2013, California Building Codes and associated Code of Regulations.
2. Accessible units shall comply with all provisions of the CBC Chapters 11A and applicable portions of 11B and applicable portions of CBC Chapters 1 and 10 per CBC 1108A.
3. All (32) 1 story units on the 2nd and 3rd floor levels of buildings 7, 8, 9, 10 with an elevator (CBC 1124A) are required have an 'accessible route' (CBC 1107A) to the 1 story units which are required to be an 'adaptable dwelling unit' per CBC 1106A and CBC 1107A.
 - (a) Provide an accessible path from the garage parking (CBC 1109A, CBC 1110A, CBC 1113A, CBC 1115A) to each accessible unit which does not travel down the driveway; (add an accessible door/path from the garage to the central walkway and elevator).
 - (b) Provide accessibility per CBC 1117A & 1130A to: kitchens CBC1133A; bathing & toilet facilities CBC 1134A; the laundry rooms CBC 1135A, walk-in closets, etc.
4. Indicate how many of the 9 affordable units are accessible and locate them on the plans.
5. Refer to L1.1: Provide an accessible path (not in the 20' wide required driveway) to and from all buildings on site, to the public right of way, and to all common use areas including the community veranda and adjoining landscaped areas, edible garden, etc.
6. The project scope on the first page of the plans is cut off.

VI. ENVIRONMENTAL REVIEW

In order to complete environmental review for this project, as mandated by the California Environmental Quality Act, staff will need the information identified in Section V of this letter.

Once the formal application has been deemed complete, Staff will begin the environmental review of the subject project. A final determination on the appropriate level of environmental review will be made once all necessary information has been submitted.

30-DAY DEVELOPMENT APPLICATION REVIEW TEAM COMMENTS (#2)
3714-3744 STATE STREET (MST2012-00443)
OCTOBER 31, 2013
PAGE 11 OF 11

XI. CONCLUSIONS/GENERAL COMMENTS

Your application has been deemed "incomplete;" however, you may appeal the decision to require additional information. An appeal must be filed at the Community Development Department's Planning and Zoning Counter within 10 days of the date of this letter. The appeal must consist of written notification indicating your grievance with the determination that your application is "incomplete" and the appropriate appeal fee. The appeal will be scheduled for review by the appropriate decision making body and you will receive notice of the hearing date.

These comments constitute your DART review. The project is scheduled for review at a meeting on ~~Tuesday, November 5, 2013, at 2:00 p.m.~~ with staff from the Planning, Transportation, Engineering, Building and Safety Divisions and the Fire Department. Please review this letter carefully prior to our scheduled meeting date. We will answer your questions on the DART comments at that time. If you do not feel it is necessary to meet with Staff to discuss the contents of the letter or the project, please call me at (805) 564-5470, extension 4552, by Monday, November 4, 2013. If we do not hear from you by this date, we will assume that you will be attending the scheduled meeting. If you have any general or process questions, please feel free to contact me.

Sincerely,



Allison De Busk
Project Planner

cc: Kellog Associates, 3740 State Street, Santa Barbara, CA 93105
Planning File
Steven Greer, Environmental Analyst
Mark Wilde, Supervising Civil Engineer
Tom Scott, Project Civil Engineer
Karen Guntow, Environmental Services Specialist
Joe Poire, Fire Battalion Chief
Jim Austin, Fire Inspector III
Gina Sunseri, Fire Inspector II
Derrick Bailey, Supervising Transportation Engineer
Steve Foley, Supervising Transportation Planner
Chris Short, Senior Plans Examiner
Autumn Malanca, Water Resources Specialist
Steve Greer, Project Planner
David Rowell, Project Planner

APPELLANT'S EXHIBIT 19

DUDEK

621 CHAPALA STREET
SANTA BARBARA, CALIFORNIA 93101
T 805.963.0651 F 805.963.2074

December 23, 2013

Allison Debusk
Project Planner
City of Santa Barbara
Planning Department
630 Garden Street
Santa Barbara, CA 93101

SUBJECT: DART Re-Submittal #3 for the Sandman Inn Revised Redevelopment
MST2012-00443; 3714-3744 State Street, City of Santa Barbara
Responses to Oct. 30, 2013 30-Day DART Comments – Submittal #2

Dear Ms. Debusk:

This letter is provided to satisfy the stated requirement in your October 31, 2013 DART Submittal #2 Comment letter to respond to each comment in writing, with an explanation providing the information requested or a description of revisions to the submitted materials in response to the stated comment. The portion of your letter containing requests and further direction to the applicant begins with Section III. Responses below are organized to correspond to the October 31, 2013 DART Comment letter.

III. STAFF SUPPORTABILITY

At this time, staff does not have enough information to determine if the project can be supported. Once the information identified in Section V of this letter has been submitted, staff will be able to take a position on the project.

However, please note that staff continues to have concerns with vehicular and pedestrian connectivity. Please refer to Transportation Division comments in Section VII of this letter for additional information. Staff would also like to see the project incorporate additional storm water treatment measures through the use of low-impact design principles such as permeable pavers. Refer to Planning Division comments in Section VII of this letter for additional information.

RECEIVED
DEC 23 2013

**CITY OF SANTA BARBARA
PLANNING DIVISION**

the conclusion of the street tree sight distance analysis is a driver's line of sight would not be obstructed by the proposed trees.

8. Show relocation of the fire hydrant at the western property line and State St. which appears to be in the middle of the proposed sidewalk.
 - The plans now show the relocation of the fire hydrant.
9. Staff previously indicated that the project would be conditioned to offer a 20-foot easement for east-west access should adjacent properties redevelop in the future, of which the applicant letter indicates understanding for the issue. Show on the plans how the site intends to accommodate a 20-foot access easement to provide access to adjacent east and west properties.
 - Plans now show conceptual future alignments for connections to accommodate a 20-foot access easement to provide access to adjacent east and west properties.

D. Building & Safety Division

1. Note: All construction projects submitted for a building permit on or after January 1st 2014 shall comply with the new 2013, California Building Codes and associated Code of Regulations.
 - Applicant understands this advisory, thank you.
2. Accessible units shall comply with all provisions of the CBC Chapters 11A and applicable portions of 11B and applicable portions of CBC Chapters 1 and 10 per CBC 1108A.
 - Applicant understands this advisory, thank you.
3. All (32) 1 story units on the 2nd and 3rd floor levels of buildings 7, 8, 9, 10 with an elevator (CBC 1124A) are required have an 'accessible route' (CBC 1107A) to the 1 story units which are required to be an 'adaptable dwelling unit' per CBC 1106A and CBC 1107A.
 - Completed as requested, see Sheets A-106 through A-112.
 - (a) Provide an accessible path from the garage parking (CBC 1109A, CBC 1110A, CBC 1113A, CBC 1115A) to each accessible unit which does not travel down the driveway; (add an accessible door/path from the garage to the central walkway and elevator).
 - Completed as discussed pursuant to 11/14/2013 meeting with Building Official; see Sheets A-106 through A-112.

- (b) Provide accessibility per CBC 1117A & 1130A to: kitchens CBC1133A; bathing & toilet facilities CBC 1134A; the laundry rooms CBC 1135A, walk-in closets, etc.
- Plans indicating compliance with the above will be provided upon submittal to Building & Safety Division for permits.
4. Indicate how many of the 9 affordable units are accessible and locate them on the plans.
- Completed as requested; see Sheet A-105.
5. Refer to L1.1: Provide an accessible path (not in the 20' wide required driveway) to and from all buildings on site, to the public right of way, and to all common use areas including the community veranda and adjoining landscaped areas, edible garden, etc.
- Completed as discussed pursuant to 11/14/2013 meeting with Building Official; see Sheet A-101.
6. The project scope on the first page of the plans is cut off.
- The Plans have been revised to correct this issue.

VI. Environmental Review

In order to complete environmental review for this project, as mandated by the California Environmental Quality Act, staff will need the information identified in **Section V** of this letter.

Once the formal application has been deemed complete, Staff will begin the environmental review of the subject project. A final determination on the appropriate level of environmental review will be made once all necessary information has been submitted.

- The applicant team continues to believe that an Addendum to the Certified EIR would be an appropriate and desired approach for satisfaction of environmental review under CEQA of the proposed project. The team is prepared to furnish additional materials, as necessary, to support the City's effort toward this end.

VII. Advisory Comments (This may include information or submittals that will be required at some future date)

A. Planning Division

1. Along the eastern property line, there is a transformer and trash enclosure located in an area that could be used as a punch-through to the AAA site,

Sandman Inn Revised Redevelopment Proposal
DART Re-Submittal
MST 2012-00443

December 23, 2013
Page 14 of 14

Extension to 30-Day Review Deadline

In order to account for the City of Santa Barbara 2014 holiday closure which commences December 24, 2013, the Applicant hereby grants to the City a 10-day extension of the 30-day review period.

Closing Remarks

I trust this information provides you with the data necessary to proceed with DART review for the proposed Revised Sandman Inn Redevelopment. Should you require any additional information, please do not hesitate to call me at 963-0651 Ext. 3521 or e-mail me at kmarshall@dudek.com.

Sincerely,



Kenneth E. Marshall, AICP
Senior Environmental Planner

Attachments

*3714-3744 State St, Mst #2012-00443, 30-Day Development Application Review Team
(Dart) Comments – Submittal #2 (City of Santa Barbara, October 31, 2013)*

*Memorandum, Sandman Inn Project – Response to DART Comments, (Associated
Transportation Engineers, December 5, 2013).*

State Street Median Exhibit

Town & Country Easement Modification Agreement, July 2012

Updated Applicant Letter (by Dudek December 2013)

cc: Greg Parker
Brian Cearnal

APPELLANT'S EXHIBIT 20



BULLETIN: APPLICABILITY AND EFFECTIVE DATES OF ADA AND CBC ACCESSIBILITY REGULATIONS

PURPOSE: To describe the applicability of the accessibility provisions in the California Building Code (CBC) Title 24, Part 2 and the Americans with Disabilities Act Standards for Accessible Design (ADA Standards or Standards) for Title II and Title III construction projects in California.

BACKGROUND: The US Department of Justice published revised regulations for Titles II and III of the Americans with Disabilities Act of 1990 (ADA) on September 15, 2010. These regulations adopted revised, enforceable accessibility standards called the 2010 ADA Standards for Accessible Design (2010 Standards).

Title II applies to all services, programs, and activities provided to the public by State and local governments. Public school projects are covered by Title II.

Title III applies to "places of public accommodation" (businesses and non-profit agencies that serve the public) and "commercial facilities" (other businesses).

For Title II and Title III projects, the applicant has the responsibility to comply with **both** the CBC and the ADA Standards, as described below. It is recommended the owner, architect or engineer review both the CBC and the ADA Standards.

Note: The building department of every city, county, or city and county shall enforce the accessibility regulations of the CBC within the territorial area of its city, county, or city and county. (Reference California Health & Safety Code §19958).

1. Determining Compliance Dates:

1.1 CBC: Construction projects must comply with the Title 24 codes in effect at the time an application is received by the enforcement agency, such as the city or county building department or the Division of the State Architect (DSA). (Reference 2010 CBC Section 1.1.9). Construction projects exempt from enforcement agency review and approval must comply with the Title 24 codes in effect at the time construction is commenced.

1.2 ADA-Title II: If physical construction or alterations commence after July 26, 1992, but prior to September 15, 2010, then new construction and alterations must comply with either the Uniform Federal Accessibility Standards (UFAS) or the 1991 ADA Standards for Accessible Design (1991 Standards) except that the elevator exemption of the 1991 Standards shall not apply.

If physical construction or alterations commence on or after September 15, 2010, and before March 15, 2012, then new construction and alterations may comply with one of the following: the 2010 Standards, the UFAS, or the

**APPLICABILITY AND EFFECTIVE DATES OF ADA AND CBC
ACCESSIBILITY REGULATIONS**

1991 Standards except that the elevator exemption of the 1991 Standards shall not apply.

If physical construction or alterations commence on or after March 15, 2012, then new construction and alterations shall comply with the 2010 Standards.

The entity must use the selected standard for all applicable elements in the entire facility.

For the purposes of this section, ceremonial groundbreaking or razing of structures prior to site preparation do not commence physical construction or alterations.

- 1.3 ADA-Title III:** New construction shall comply with the 1991 Standards if the date when the last application for a building permit or permit extension is certified to be complete by a State, county, or local government (or, in those jurisdictions where the government does not certify completion of applications, if the date when the last application for a building permit or permit extension is received by the State, county, or local government) is after January 26, 1992, and before September 15, 2010, or if no permit is required, if the start of physical construction occurs after January 26, 1992, and before September 15, 2010; and, if the first certificate of occupancy for the facility is issued after January 26, 1993. Alterations shall comply with the 1991 Standards if the physical alteration begins after January 26, 1992, and before September 15, 2010.

New construction and alterations shall comply with either the 1991 Standards or the 2010 Standards if the date when the last application for a building permit or permit extension is certified to be complete by a State, county, or local government (or, in those jurisdictions where the government does not certify completion of applications, if the date when the last application for a building permit or permit extension is received by the State, county, or local government) is on or after September 15, 2010, and before March 15, 2012, or if no permit is required, if the start of physical construction or alterations occurs on or after September 15, 2010, and before March 15, 2012.

New construction and alterations shall comply with the 2010 Standards if the date when the last application for a building permit or permit extension is certified to be complete by a State, county, or local government (or, in those jurisdictions where the government does not certify completion of applications, if the date when the last application for a building permit or permit extension is received by a State, county, or local government) is on or after March 15, 2012, or if no permit is required, if the start of physical construction or alterations occurs on or after March 15, 2012.

APPLICABILITY AND EFFECTIVE DATES OF ADA AND CBC ACCESSIBILITY REGULATIONS

The entity must use the selected standard for all applicable elements in the entire facility.

For the purposes of this section, ceremonial groundbreaking or razing of structures prior to site preparation do not commence physical construction or alterations.

- 2. For Additional Information:** The following ADA publications can be found on the Internet:

ADA 2010 Revised Requirements: Effective Date / Compliance Date

(HTML) http://www.ada.gov/revised_effective_dates-2010.htm
(PDF) http://www.ada.gov/revised_effective_dates-2010.pdf

2010 ADA Standards for Accessible Design

(HTML) <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>
(PDF – screen) <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.pdf>
(PDF – print version) http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards_prt.pdf

Guidance on the 2010 Standards for Accessible Design

(HTML) <http://www.ada.gov/regs2010/2010ADASTandards/Guidance2010ADASTandards.htm>
(PDF – screen) http://www.ada.gov/regs2010/2010ADASTandards/Guidance_2010ADASTandards.pdf
(PDF – print version) http://www.ada.gov/regs2010/2010ADASTandards/Guidance_2010ADASTandards_prt.pdf

- 3. 2013 California Building Code:**

DSA is reviewing the 2010 ADA Standards and will prepare responsive California revisions for the 2013 CBC. Public vetting of this process will occur through the DSA Advisory Board. If you would like to receive notification of meetings where access code issues are discussed, contact Derek Shaw, Executive Director of the DSA Advisory Board, at derek.shaw@dgs.ca.gov or (916) 324-7178.

APPELLANT'S EXHIBIT 21



City of Santa Barbara
Building & Safety Division
Permit Record

City: 05694
Receipt: 8/31/15
Date: 8/31/15

Building Permit # **BLD2015-01129**
Site Address: **3714 STATE ST**

Issued: **8/31/2015**
Initial Expiration: **2/27/2016**

People Associated With Project:

OWN KELLOG ASSOCIATES 503 BATH ST C/O ALEX PANANIDES SANTA BARBARA CA 9
CON SCHWAN BROTHERS EXCAVATING 20 S KELLOGG AVE. GOLETA CA 93117

PROJECT NAME: C/A-DEMO **PARCEL:**053-300-023 **ZONE:** C-P/SD-2
PROJECT DESCRIPTION:
Demolition of approximately 16 buildings 44,638 sf. Grading and site work will stay under BLD2015-01791 & BLD2014-02441.

CLASS OF WORK :	DEM	NEW FLOOR AREA:	sf	NO. PLAN SHEETS.:	12
TYPE OF USE :	COM	CONVERSION:	sf	GRADING.....:	cy
TYPE OF CONSTR :		TENANT IMPR:	sf	VALUATION.....:	0.00
OCCUPANCY GRP.:		REMOD./FINISH :	sf	FLOOD ZONE.....:	
OCCUPANT LOAD :		ACCESS. BLDG:	sf	LAND USE ZONE...:	C-P/SD-2
FIRE SPRK REQD?:		GARAGE/CARPT :	sf	APPLICANT'S VALUATION:	425,000
STORIES. . . .:		-PAVED	75,000 sf	CONTACT PERSON...:	AB
DWELLING UNITS:		PAVING:	sf		
BEDROOMS . . .:		SCHOOL FEE:	sf		

THIS PERMIT BECOMES NULL AND VOID IF work or construction authorized is not commenced within 180 days from the date of issuance, or work is suspended or abandoned for a period of 180 days any time after work is commenced.

(X) (1a) I certify that I am licensed under the State Contractor's License Law and my contractor's license is in full force and effect: or
() (1b) I certify that I am exempt from Business and Professions Code # 7031.5 under () #7044-Owner Builder () #7048-Price of labor and materials is less than \$300, or () Other

(X) (2a) I certify that I have a certificate of worker's compensation insurance. Insurer: _____, Policy #: _____, Expiration date: / / , or a Certificate of Consent to self insure by the Director of Industrial Relations; or,

() (2b) I certify that I am exempt under Labor Code #3800 because () the permit is for work of \$100 or less, () that in the performance of the work for which this permit is issued, I shall not employ any person so as to become subject to the worker's compensation laws of Calif..

(3) Will building occupant need to comply with H.S.C. Section 25505, 25533 and 25534 ? () yes (X) no

(4) Does the project involve any of the following; removal of a load bearing wall and/or demolition of a commercial building; demolition of five or more units on the same parcel? () yes (X) no (if yes, please complete the supplemental declaration for such projects)

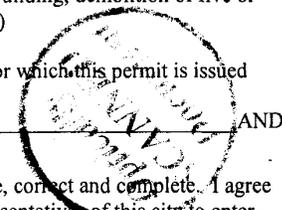
(5) This project is funded by a construction lending agency () yes (X) no

I hereby affirm under the penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ C.)

Lender's Name _____ Lender's Address _____ AND

I certify that I have read this application and declare under penalty of perjury that the information contained herein is true, correct and complete. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this city to enter upon the above mentioned property for inspection purposes. I am the owner of the structure listed on this permit or I, as a licensed contractor, am acting with the owner's full knowledge and consent.

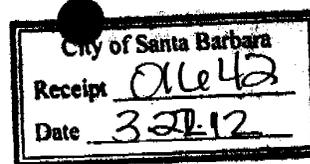
Print Name Here Tom Schwab
Executed at City of Santa Barbara on 8/31/15 Sign Name Here Tom Schwab



APPELLANT'S EXHIBIT 22



City of Santa Barbara
Building & Safety Division
Permit Record



Building Permit # **BLD2012-00489**
Site Address: **510 N SALSIPUEDES ST**

Issued: **3/22/2012**
Initial Expiration: **9/18/2012**

People Associated With Project:

OWN CLAVERIA, BERTHA FAM TR 4/5/96 1106 COAST VILLAGE RD SANTA BARBARA CA 93108
CON DAN UPTON CONSTRUCTION, INC. 2272 LAS CANOAS RD SANTA BARBARA CA 93105

PROJECT NAME: R/OTC-DEMO PARCEL:031-222-018 ZONE: C-M
PROJECT DESCRIPTION:
Demolish 3 (e) units on parcel. 510 (870 sf), 512 (800 sf), 514 N. Salsipuedes St.(875 sf) and shed (150 sf). Add temporary construction fencing around perimeter. No other work proposed under this permit.

CLASS OF WORK :	DEM	NEW FLOOR AREA:	sf	NO. PLAN SHEETS.:	3
TYPE OF USE :	SFR	CONVERSION:	sf	GRADING.....:	cy
TYPE OF CONSTR :	V-B	TENANT IMPR:	sf	VALUATION.....:	0.00
OCCUPANCY GRP.:	R-3	REMOD./FINISH :	sf	FLOOD ZONE.....:	YES
OCCUPANT LOAD :		ACCESS. BLDG:	sf	LAND USE ZONE...:	C-M
FIRE SPRK REQD?:		GARAGE/CARPT :	sf	APPLICANT'S VALUATION:	45,000
STORIES. . . . :			sf		
DWELLING UNITS:		PAVING:	sf		
BEDROOMS . . . :		SCHOOL FEE:	sf	CONTACT PERSON..:	NM

THIS PERMIT BECOMES NULL AND VOID IF work or construction authorized is not commenced within 180 days from the date of issuance, or work is suspended or abandoned for a period of 180 days any time after work is commenced.
 (1a) I certify that I am licensed under the State Contractor's License Law and my contractor's license is in full force and effect: or
 (1b) I certify that I am exempt from Business and Professions Code # 7031.5 under ()#7044-Owner Builder ()#7048-Price of labor and materials is less than \$300, or () Other _____
 (2a) I certify that I have a certificate of worker's compensation insurance. Insurer: _____, Policy #: _____, Expiration date: / / , or a Certificate of Consent to self insure by the Director of Industrial Relations; or,
 (2b) I certify that I am exempt under Labor Code #3800 because () the permit is for work of \$100 or less, () that in the performance of the work for which this permit is issued, I shall not employ any person so as to become subject to the worker's compensation laws of Calif.
(3) Will building occupant need to comply with H.S.C. Section 25505, 25533 and 25534 ? () yes () no
(4) Does the project involve any of the following: removal of a load bearing wall and/or demolition of a commercial building; demolition of five or more units on the same parcel? () yes () no (if yes, please complete the supplemental declaration for such projects)
(5) This project is funded by a construction lending agency () yes () no
I hereby affirm under the penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ C.)
Lender's Name _____ Lender's Address _____ AND

I certify that I have read this application and declare under penalty of perjury that the information contained herein is true, correct and complete. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this city to enter upon the above mentioned property for inspection purposes. I am the owner of the structure listed on this permit or I, as a licensed contractor, am acting with the owner's full knowledge and consent.
Print Name Here DAN UPTON
Executed at City of Santa Barbara on 3-22-12 Sign Name Here [Signature]

APPELLANT'S EXHIBIT 23

Activities for BLD2014-00906	Date 1	Date 3	12/31/1999
Initial Review - Accessibility	PLCK	5/20/2014	6/3/2014
+ Plan Review by Chris Hansen, CASp #270 - chansen@SantaBarbaraCA.gov			
1. See also red-lines on returned plans.			
SHEET G1.0			
2. Identify on the Unit Count chart which rooms are to meet the requirements of 11B-233.3. Specify which will provide the mobility features of 11B-233.3.1.1 and which will provide the communication features of 11B-233.3.1.3 I only found the two required to provide mobility features on the floor plans but did not find the unit with communication features. Note that using the manager's unit as the unit providing mobility features is not allowed to be one of the required accessible units as this unit would not be available to a renter.			
SHEET G1.1			
3. The required exit paths of travel are required to be accessible to the public right of way. The exit discharge at the rear of the building uses two stairs without a corresponding ramp. 1007.1 & 1007.2			
4. See section 1007.4 for requirements of elevators used as an accessible means of egress.			
SHEET G1.2			
5. Note that per 11B-216.6, an ISA sign is only required on accessible entrances to existing buildings where not all entrances are accessible.			
6. Signage Key Note #3 - Heights are 48" min to baseline if bottom Braille character and 60" max to baseline of highest raised character. 11B-703.4			
SHEET C1.1			
7. Provide running and cross slopes along accessible paths.			
8. Provide slopes at the accessible parking spaces and access aisles.			
9. Grading note number 14 references sheet C1.5 for handrail details at the entrance ramp which are not provided.			
SHEET A1.10			
10. There appears to be an entrance to the property from Haley St that is not accessible. Per 11B-206.2.1 and 11B-206, all routes from site arrival points must be accessible. Note that if this is considered to be a "machinery space" not required to provide access per 11B-203.6, access to the rest of the property through this area must not be provided.			
11. Provide references to the details for all stairways, ramps and elevators. Include handrails, landings, and dimensions.			
12. Identify the accessible route to all common use areas such as the trash room and laundry room, from all of the units. Note that this route cannot use the public sidewalk to access the trash room.			
13. Detail A - Note that this detail complies with the 2010 CBC requirements, not the 2013 as follows;			
a. Provide min 12' wide van parking space w' 5' access aisle in new construction. 11B-			
b. ISA symbol to be centered and lined up with end of parking space.			
c. Outline of access aisle to be blue. Cross stripes to be contrasting color with surface.			
14. Detail B			
a. Spacing and dimensions of domes are ranges			
15. Detail C			
a. Accessible parking signage not along an accessible route is to be mounted at 60" to the bottom of the sign above the finish floor or surface. 11B-502.			
b. Complete the "tow-away" sign.			
16. Detail D - Correct reference to be the 2013 CBC Section 11B-703 not the 1991 ADAAG.			
17. Provide a detail of the new diagonal curb showing compliance with section 11B-406. Note that neither the details on sheet A8.10 nor the civil plans provide this.			
18. Provide reference to elevator detail. Note to include details that show compliance with all of 1124A.			
SHEET A2.11			
19. Reference the detail sheet(s) for all rooms in the Community Center. Include the bathrooms, laundry room, classroom, kitchen, etc.			
SHEET A3.10			
20. General Note #6. Door hardware for public use areas to be mounted between 34" - 44" AFF. 11B-404.2.7.			
SHEET A3.11			
21. G-1 - A residential entry gate shall meet the requirements of a door. This includes hardware, smooth surface,			
SHEET A5.10			
22. Show the vertical clearance at the vehicle entry and along the vehicle path to and from the accessible space is a min 8'2". 1109A.8.1			
SHEETS A6.10 - A6.40			
23. Provide details and/or dimensions that shows compliance with Section 1128A - 1136A for all rooms required to be adaptable. Providing general comments in the "Fixture & Appliances" table is not adequate.			
24. Provide details and/or dimensions that shows compliance with 11B-233.3 for the rooms required to be accessible.			
SHEET A6.50			

25. *The floor plan of the kitchen shows only a parallel approach. A forward approach is required in kitchens with either a cooktop or range is provided.*
26. *The common laundry room shall comply with 11B-214. Provide details and dimensions as needed.*
27. *Provide notes for required assistive listening system in community center and classroom per 11B-219.*
SHEET A8.10
28. *Detail #1 - The intermediate landing with a change of direction requires a min. 72" dimension in the direction of downward travel from the upper ramp slope. 11B-405.7.4*
SHEET A8.35
29. *Include dimension on detail 8 that shows mounting of handrails complies with 11B-505.6*
SHEET A8.60
30. *Detail 4 -*
- a. *Show the required 6" toe space under the side partition. 11B-604.8.1.4.*
- b. *The 4" distance from the front wall to the door opening is a maximum, not a minimum. 11B-604.8.1.2.*
31. *Detail 10 - Mounting heights of signs are in correct and a note is needed for "contrast". See detail sheet for red-lines.*
32. *Detail 20 - Sign mounting notes are incorrect. See 1134A.6 items #8 & 9 for current requirements.*

APPELLANT'S EXHIBIT 24



STATE OF CALIFORNIA
 OFFICE OF THE ATTORNEY GENERAL
 BILL LOCKYER
 ATTORNEY GENERAL

December 23, 2002

To: District Attorneys
 City Attorneys
 County Counsel

Re: Compliance with and Enforcement of California's Disabled Access Laws

Dear Ladies and Gentlemen:

California's laws that guarantee individuals with disabilities the right to access publicly funded buildings and facilities and privately funded public accommodations have been in existence for more than 30 years. (Gov. Code, § 4450 et seq.; and Health & Saf. Code, § 19955 et seq.) In 1992, the Americans with Disabilities Act (ADA), 42 United States Code, section 12101 et seq., established the federal right of individuals with disabilities to access publicly funded buildings and facilities and privately funded public accommodations. These laws implement the well-established public policy that individuals with disabilities have a civil right to access our buildings, facilities and businesses on an equal basis with their fellow citizens who are not disabled.

As you may be aware, I have issued and sent to local governments several letters addressing specific California disabled access laws.¹ These letters encourage local public officials and bodies to do whatever they can to improve the level of compliance with our disabled access laws. I am now writing all California city attorneys, county counsels and district attorneys and urging them to join me in a renewed and concerted effort to gain better compliance with and to improve enforcement of California disabled access laws.

My call for greater attention to this issue is prompted by two concerns. First, advocates for the rights of individuals with disabilities have reported to me their continuing frustration with the violations of state access laws and regulations that exist throughout California. I am concerned that, notwithstanding the long period of time that California access laws and

¹See letters at <<http://www.caag.ca.us/civilrights.highlights.htm#disability>>.



District Attorneys, City Attorneys, County Counsel
Page 2

regulations have been in effect, individuals with disabilities are often denied their right to access buildings, facilities and public accommodations. Second, I am aware that the business community is becoming increasingly concerned with what appears to be a significant increase in the number of lawsuits that are being filed to correct violations of state and federal access laws and regulations. Recently, a local chamber of commerce wrote me and advised that these lawsuits are having a serious impact on small businesses in its community. I fully understand and share the business community's concern about the impact of these lawsuits. However, compliance with our access laws and regulations is not optional. The best way to avoid litigation is to comply with these laws and regulations.

I believe that city attorneys, county counsels and district attorneys can play an important and effective role in achieving greater compliance with state access laws and regulations. Greater compliance will avoid the necessity for costly litigation, minimize civil rights violations, and allow our business community to prosper.

There are several ways in which city attorneys, county counsels and district attorneys can help to make our disabled access laws and regulations work. First, with respect to accessibility laws and regulations that apply to publicly funded buildings and facilities, city attorneys and county counsels can, through the advice they provide, guide cities and counties to improving their compliance with these laws and regulations. I am committed to providing the same advice to the state agencies that I represent in my capacity as Attorney General.

Second, city attorneys and county counsels, on behalf of the cities and counties that they represent, assist local building officials in getting property owners of privately funded public accommodations to correct violations of state access laws and regulations that have been discovered to exist.

Third, city attorneys, district attorneys and the Attorney General have been vested by the Legislature with the independent discretionary power to institute legal actions to redress the unlawful denial of access to individuals with disabilities and to compel compliance with our access laws and regulations.² (Civ. Code, §§ 52 and 55.1; Gov. Code, § 4458; and Health & Saf. Code, § 19958.5.)

²Although state and local officials do not have the statutory authority under federal law to directly enforce ADA access regulations, California law states that a violation of the ADA is a violation of state law (Civ. Code, §§ 51, 54 and 54.1), and city attorneys and district attorneys have the discretionary authority to enforce this state law. (Civ. Code, §§ 52 and 55.1; and 76 Cal.Atty.Gen.Ops. 130, 137; but see, *People of the State of New York v. The Mid Hudson Medical Group* (S.D.N.Y. 1995) 877 F.Supp. 143, where the New York Attorney General established *parens patriae* standing to maintain an action in federal court to enforce the ADA.)

City Attorney/County Counsel/District Attorney
Page 3

In closing, I urge you to join me, local building officials, state and local public officials, those who design and construct public buildings and facilities and privately funded public accommodations, and our business and disability communities in doing everything we can to implement the public policy that is embodied in our state and federal access laws. Public policy and state and federal laws require that the environment in which we live be equally accessible to all who reside in the State of California. Thank you for your time and anticipated effort in helping to achieve this most important goal. If you have any questions or comments, please feel free to contact me or Special Assistant Attorney General Alberto L. Gonzalez of my staff. Mr. Gonzalez may be reached at (916) 324-5369 or at his e-mail address: alberto.gonzalez@doj.ca.gov.

Sincerely,

BILL LOCKYER
Attorney General

APPELLANT'S EXHIBIT 25

Cal Health & Saf Code § 19958.5

This document is current for urgency legislation through Chapter 6 of the 2016 Session.

Deering's California Code Annotated > *HEALTH AND SAFETY CODE* > *Division 13. Housing* > *Part 5.5. Access to Public Accommodations by Physically Handicapped Persons*

§ 19958.5. Action to enjoin violation

The district attorney, the city attorney, the county counsel if the district attorney does not bring an action, the Department of Rehabilitation acting through the Attorney General, or the Attorney General may bring an action to enjoin a violation of this part.

History

Added Stats 1976 ch 869 § 3. Amended [*Stats 2003 ch 872 § 7 \(SB 262\)*](#).

Annotations

Notes

Amendments:

2003 Amendment:

Added "county counsel if the district attorney does not bring an action, the".

Cal Gov Code § 4458

This document is current for urgency legislation through Chapter 6 of the 2016 Session.

Deering's California Code Annotated > *GOVERNMENT CODE* > *Title 1, General* > *Division 5, Public Work and Public Purchases* > *Chapter 7, Access to Public Buildings by Physically Handicapped Persons*

§ 4458. Who may bring action to enjoin violation

The district attorney, the city attorney, the county counsel if the district attorney does not bring an action, or the Attorney General may bring an action to enjoin a violation of this chapter.

History

Added Stats 1976 ch 869 § 2. Amended [Stats 2003 ch 872 § 1 \(SB 262\)](#).

Annotations

Notes

Amendments:

2003 Amendment:

Added "the county counsel if the district attorney does not bring an action,".

APPELLANT'S EXHIBIT 26

1 BILL LOCKYER, Attorney General
of the State of California
2 LOUIS VERDUGO, JR.
Senior Assistant Attorney General
3 SUZANNE AMBROSE
Supervising Deputy Attorney General
4 KATHLEEN W. MIKKELSON, State Bar No.
056896
5 Deputy Attorney General
1515 Clay Street
6 P. O. Box 70550
Oakland, CA 94612-0550
7

8 Attorneys for the Plaintiff People of the State of
California ex rel. Bill Lockyer,
9 Attorney General of the State of California

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF MARIN
12

13 PEOPLE OF THE STATE OF CALIFORNIA ex rel.
14 BILL LOCKYER, ATTORNEY GENERAL OF THE
STATE OF CALIFORNIA,

Plaintiff,

15 v.
16

17 MILL VALLEY CITY COUNCIL, MILL VALLEY
18 BUILDING DEPARTMENT, AND DOES ONE
THROUGH FIFTY,

19 Defendants,.
20

Case No.:

**PETITION FOR WRIT OF
MANDATE AND
COMPLAINT FOR
INJUNCTIVE RELIEF**

21 The People of the State of California, by and through Bill Lockyer, Attorney General of
22 the State of California, allege as follows:

23 **INTRODUCTION**

24 1. Government Code section 4450 et seq. requires that all buildings, structures, sidewalks,
25 curbs and related facilities constructed or remodeled with public funds after January 1, 1969, be
26 accessible to and usable by persons with disabilities and that they comply with the building standards
27 contained in regulations adopted by the California Building Standards Commission set forth at Title
28

1 24, Part 2, Volume 1 of the California Code of Regulations (“Title 24”).

2 2. Government Code section 4453 provides that where municipal funds are utilized, the
3 governing body of the municipality has a mandatory duty to enforce Government Code section 4450
4 et seq. and Title 24 with respect to publicly funded buildings, structures, sidewalks, curbs and related
5 facilities located within the municipality’s jurisdiction.

6 3. Government Code section 4452 provides that any unauthorized deviation from Title 24
7 regulations shall be rectified by full compliance within 90 days after confirmation of the deviation.

8 4. Health and Safety Code section 19955 et seq. requires that all privately funded public
9 accommodations and facilities constructed or remodeled after January 1, 1970 be accessible to and
10 usable by persons with disabilities, and that they comply with the provisions of Government Code
11 section 4450 et seq. and the building standards contained in Title 24.

12 5. Health and Safety Code section 19958 provides that the building department of a city has
13 the mandatory duty to enforce Health and Safety Code section 19955 et seq. and Title 24 with respect
14 to privately-funded public accommodations and facilities within the city’s jurisdiction.

15 6. Civil Code section 54 , subdivision (a) provides that individuals with disabilities have the
16 same right as the general public to the full and free use of the streets, sidewalks, walkways, public
17 buildings, public facilities and other public places. Civil Code section 54, subdivision (c) provides that
18 a violation of the right of an individual under the Americans with Disabilities Act of 1990 also
19 constitutes a violation of Civil Code section 54.

20 **THE PARTIES**

21 7. Plaintiff Bill Lockyer is the duly elected Attorney General of the State of California. The
22 Attorney General is empowered by the California Constitution to take whatever action is necessary
23 to see that the laws of the State are uniformly and adequately enforced. (Cal. Const., art. V, § 13.)
24 This authority extends to taking whatever action is necessary to ensure that local governing bodies
25 and local building departments meet their mandatory duties to enforce Government Code section
26 4450 et seq., Health and Safety Code section 19955 et seq., and the building standards that are set
27 forth in Title 24. Government Code section 4458 and Health and Safety Code section 19958.5
28 authorize the Attorney General to enforce these statutory provisions and regulations. The Attorney

1 General is also authorized, pursuant to Civil Code section 55.1, to enforce the provisions of Civil
2 Code section 54.

3 8. The Defendant Mill Valley City Council is a governing body within the meaning of
4 Government Code section 4453 and, therefore, has a mandatory duty to enforce Government Code
5 section 4450 et seq. and Title 24 with respect to publicly funded buildings, structures, sidewalks,
6 curbs and related facilities that are constructed or altered with municipal funds. The Defendant Mill
7 Valley City Council is also responsible for ensuring that the streets, sidewalks, walkways, public
8 buildings, public facilities and other public places constructed, operated or maintained by the City
9 comply with the provisions of Civil Code section 54.

10 9. Defendant Mill Valley Building Department (hereafter “Defendant Building Department”)
11 is a building department within the meaning of Health and Safety Code section 19958 and has a
12 mandatory duty to enforce Health and Safety Code section 19958 et seq. and Title 24 with respect
13 to privately funded public accommodations and facilities that are subject to the jurisdiction of the city
14 of Mill Valley and a mandatory duty to comply with the provisions of Civil Code section 54 as to
15 public facilities within its jurisdiction.

16 10. Defendants Does One Through Fifty, inclusive, are sued under fictitious names. Their true
17 names and capacities are unknown to Plaintiff, and therefore, Plaintiff sues them in this fictional
18 capacity. When their true names and capacities are ascertained, Plaintiff will amend this Petition by
19 inserting their true names and capacities herein.

20 **VENUE AND JURISDICTION**

21 11. This Court is the appropriate venue for this case because the Defendant City of Mill Valley
22 and the Mill Valley Building Department are located within Marin County. Moreover, this Court
23 has jurisdiction over causes of action alleging the failure to carry out mandatory statutory
24 responsibilities pursuant to Government Code section 4450 et seq., Health and Safety Code sections
25 19955 et seq. and Civil Code section 54.

26 **EXHAUSTION OF REMEDIES**

27 12. The State is exempted from having to comply with applicable claims procedures for suits
28 brought against local public entities pursuant to Government Code section 905, subdivision (i).

1 **ALLEGATIONS**

2 **FIRST CAUSE OF ACTION**

3 **(Against All Defendants)**

4 (Mandamus Relief–Failure to Meet Mandatory Duty to Enforce Government Code section 4450 et
5 seq., Health and Safety Code section 19955 et seq., and Title 24)

6 13. Plaintiff realleges and incorporates the allegations of paragraphs 1 through 12 as if fully set
7 forth herein.

8 14. On or about March 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
9 he had lodged a complaint with Defendants on that same date alleging that the entrance, the parking
10 lot, drinking fountain, service counter and restrooms of a Jiffy Lube located at 374 Miller Avenue in
11 Mill Valley did not comply with Title 24. Jiffy Lube is subject to the jurisdiction of Defendant
12 Building Department and is a privately funded public accommodation or facility within the meaning
13 of Health and Safety Code section 19955 et seq. Plaintiff conducted an investigation of the private
14 citizen’s complaint and determined that the Defendants failed to properly investigate and resolve the
15 complaint and that, as of July 9, 2003, the entrance, the parking lot, drinking fountain, service counter
16 and restrooms of the Jiffy Lube did not comply with Title 24.

17 15. On or about August 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
18 he had lodged a complaint with Defendants on this same date alleging that the parking facilities, front
19 entrance, and service counter of the Baskin Robbins located at 29 Miller Avenue in Mill Valley did not
20 comply with Title 24. This Baskin Robbins is subject to the jurisdiction of Defendant Building
21 Department and is a privately funded public accommodation or facility within the meaning of Health
22 and Safety Code section 19955 et seq. Plaintiff conducted an investigation of the private citizen’s
23 complaint and determined that the Defendants failed to properly investigate and resolve the complaint
24 and that, as of July 9, 2003, the parking facilities, front entrance and service counter at Baskin Robbins
25 did not comply with Title 24.

26 16. On or about March 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
27 he had previously lodged a complaint with Defendants on or about April 29, 2001, alleging that the
28 parking facilities and the men’s restroom at the Cantina, located at 651 East Blithesdale Avenue in Mill

1 Valley, did not comply with Title 24. He further alleged that Defendants failed to adequately
2 investigate and resolve his complaint. The Cantina is subject to the jurisdiction of Defendant Building
3 Department and is a privately funded public accommodation or facility within the meaning of Health
4 and Safety Code section 19955 et seq. Plaintiff conducted an investigation of the private citizen's
5 complaint and determined that Defendants failed to properly investigate and resolve the complaint and
6 that, as of July 9, 2003, the parking facilities and men's restroom at the Cantina did not comply with
7 Title 24.

8 17. Shortly after April 30, 2002, a private citizen lodged a complaint with Plaintiff alleging that
9 he had lodged a complaint with Defendants around that same date, alleging that the restrooms at
10 Piazza D'Angelo, located at 22 Miller Avenue in Mill Valley, did not comply with Title 24. Piazza
11 D'Angelo is subject to the jurisdiction of Defendant Building Department and is a privately funded
12 public accommodation or facility within the meaning of Health and Safety Code section 19955 et seq.
13 Plaintiff conducted an investigation of the private citizen's complaint and determined that the
14 Defendants failed to properly investigate and resolve the complaint and that, as of July 9, 2003, the
15 restrooms at Piazza D'Angelo did not comply with Title 24.

16 18. On or about March 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
17 he had previously lodged a complaint with Defendants on or about April 7, 2001, alleging that the
18 primary entrance and the men's and women's restrooms at Champagne Bakery, located at 41
19 Throckmorton Avenue in Mill Valley, did not comply with Title 24. He further alleged that
20 Defendants failed to adequately investigate and resolve his complaint. Champagne Bakery is subject
21 to the jurisdiction of Defendant Building Department and is a privately funded public accommodation
22 or facility within the meaning of Health and Safety Code section 19955 et seq. Plaintiff conducted an
23 investigation of the private citizen's complaint and determined that the Defendants failed to properly
24 investigate and resolve the April 7, 2001 complaint and that, as of July 9, 2003, the primary entrance
25 and the men's and women's restrooms at Champagne Bakery did not comply with Title 24.

26 19. On or about August 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
27 he had lodged a complaint with Defendants on this same date alleging that the exterior exit gate from
28 the patio at Mudbugs, located at 44 East Blithedale Avenue in Mill Valley, did not comply with Title

1 24. Mudbugs is subject to the jurisdiction of Defendant Building Department and is a privately funded
2 public accommodation or facility within the meaning of Health and Safety Code section 19955 et seq.
3 Plaintiff conducted an investigation of the private citizen's complaint and determined that the
4 Defendants failed to properly investigate and resolve the complaint and that, as of July 9, 2003, the
5 exterior exit gate did not comply with Title 24. Moreover, there were no detectable warnings over
6 the driveway, as required by Title 24.

7 20. On or about August 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
8 he had lodged a complaint on this same date with Defendants alleging that the parking facilities of the
9 West America Bank, located at 64 East Blithesdale Avenue in Mill Valley, did not comply with Title
10 24. West America Bank is subject to the jurisdiction of Defendant Building Department and is a
11 privately funded public accommodation or facility within the meaning of Health and Safety Code
12 section 19955 et seq. Plaintiff conducted an investigation of the private citizen's complaint and
13 determined that Defendants failed to properly investigate and resolve the complaint and that, as of July
14 9, 2003, West America Bank's parking facilities did not comply with Title 24.

15 21. On or about March 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
16 he had previously lodged a complaint with Defendants on or about April 29, 2001, alleging that the
17 parking facilities and curb ramps serving Rite Aid, located at 701 East Blithesdale Avenue in Mill
18 Valley, did not comply with Title 24. He further alleged that the Defendants failed to adequately
19 investigate and resolve his complaint. Rite Aid is subject to the jurisdiction of Defendant Building
20 Department and is a privately funded public accommodation or facility within the meaning of Health
21 and Safety Code section 19955 et seq. Plaintiff conducted an investigation of the private citizen's
22 complaint and determined that the Defendants failed to properly investigate and resolve the complaint
23 and that, as of July 9, 2003, Rite Aid's parking facilities and curb ramps still did not comply with Title
24 24.

25 22. On or about March 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
26 he had previously lodged a complaint with Defendants on or about April 1, 2001, May 5, 2001, and
27 May 6, 2001, alleging that the passenger loading zones, parking facilities, flagpole, elevators, entry
28 door tactile signage, fire alarm pull stations, exterior routes, men's restroom, family changing room,

1 men's locker room, pool area exit doors, sliding doors between the pool and the exterior seating area,
2 field gate and field bleachers at the Mill Valley Community Center, located on Camino Alto Road in
3 Mill Valley, did not comply with Title 24. He further alleged that the Defendants failed to adequately
4 investigate and resolve his complaint. Plaintiff is informed and believes and on that basis, alleges that
5 the Mill Valley Community Center is a facility that was constructed with the use of municipal funds
6 after January 1, 1969. Plaintiff conducted an investigation and determined that Defendants failed to
7 properly investigate and resolve the complaint, and that, as of July 15, 2003, the passenger loading
8 zones, parking facilities, flagpole, elevators, entry door tactile signage, game room door signage,
9 public phone volume control signage, fire alarm pull stations, exterior routes, food kiosk service
10 window, men's restroom, family changing room, men's locker room, pool area exit doors, sliding
11 doors between the pool and the exterior seating area, field gate and field bleachers at the Mill Valley
12 Community Center did not comply with Title 24.

13 23. On or about March 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
14 he had previously lodged a complaint with Defendants on or about October 6, 2001, alleging that the
15 men's and women's restrooms and the elevators at the Mill Valley Library, located at 375
16 Throckmorton Avenue in Mill Valley, did not comply with Title 24. He further alleged that the
17 Defendants failed to adequately investigate and resolve his complaint. Plaintiff is informed and
18 believes, and on that basis alleges that the Mill Valley Library is a facility that was remodelled with the
19 use of municipal funds after January 1, 1969. Plaintiff conducted an investigation and determined that
20 Defendants failed to properly investigate and resolve the complaint, and that, as of July 15, 2003, the
21 restrooms and the elevators at the Mill Valley Library did not comply with Title 24.

22 24. On or about March 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
23 he had previously lodged a complaint with Defendants on or about October 6, 2001, alleging that Mill
24 Valley was not carrying out an effective enforcement policy to prevent Mill Valley business owners
25 from blocking public sidewalk access to the disabled by placing clothing racks, tables, chairs and other
26 product displays on the sidewalks in violation of Title 24. He further alleged that the Defendants failed
27 to adequately investigate and resolve his complaint. Plaintiff is informed and believes, and on that
28 basis, alleges that the public sidewalks within Mill Valley are facilities which were constructed or

1 altered with the use of municipal funds after January 1, 1969. Plaintiff conducted an investigation and
2 determined that Defendants failed to properly investigate and resolve the complaint, and that, as of
3 July 15, 2003, Defendant Building Department had not drafted a policy regarding the blockage of
4 disabled access to public sidewalks by street furniture and that Defendants were not adequately
5 enforcing existing municipal codes which governed the encroachment of objects on public sidewalks.

6 25. On or about September 25, 2002, a private citizen lodged a complaint with Plaintiff alleging
7 that he had lodged a complaint with Defendants that same date alleging that the Mill Valley City Hall,
8 located at 26 Corte Madera Avenue in Mill Valley, has a policy that requires 24 hours' advance notice
9 for three assistive listening devices to be provided, in addition to the one that is already provided
10 without notice, and that such requirement violates Title 24. Plaintiff is informed and believes, and on
11 that basis alleges, that the Mill Valley City Hall was constructed or altered with the use of municipal
12 funds after January 1, 1969. Plaintiff conducted an investigation and determined that Defendants had
13 failed to adequately investigate and resolve the complaint and that, as of July 15, 2003, the policy
14 requiring 24 hours' advance notice for the provision of more than one assistive listening device at the
15 Mill Valley City Hall is still in effect and that such policy violates Title 24.

16 26. The allegations contained in Paragraphs 1 through 25 above establish that Defendants have
17 failed to carry out their mandatory duty to enforce Government Code section 4450 et seq., Health and
18 Safety Code section 19955 et seq. and the implementing regulations contained in Title 24. Plaintiff
19 is informed and believes, and based upon such information and belief alleges that Defendants' failure
20 to meet such mandatory duty is due to defective or inadequate policies, practices, and procedures for
21 preventing and correcting violations of Government Code section 4450 et seq., Health and Safety
22 Code section 19955 et seq. and Title 24, and the failure to provide adequate disabled access training
23 to their employees who are responsible for disabled access enforcement. Complaints received by
24 Defendants that allege deviations from Government Code section 4450 et seq., Health and Safety
25 Code section 19955 et seq. and Title 24 are not adequately investigated and are not rectified within
26 90 days of the confirmation of a deviation, and building permits are being issued by Defendants for
27 new construction and/or alteration projects which do not conform with Health and Safety Code section
28 19955 et seq. and Title 24. Publicly-funded facilities are being constructed and remodeled that do not

1 comply with Government Code section 4450 et seq. and Title 24. This failure to enforce Government
 2 Code section 4450 et seq., Health and Safety Code section 19955 et seq., and Title 24 and to do so
 3 in a timely manner has resulted in, and poses an unreasonable risk of, future violations of those laws
 4 and regulations.

5 27. Plaintiff is entitled to a writ of mandate ordering Defendants to carry out their mandatory
 6 duty to enforce Government Code section 4450 et seq. and Health and Safety Code section 19955 et
 7 seq.

8 28. Plaintiff is entitled to all costs of investigating and prosecuting actions pursuant to
 9 Government Code section 4458 and Health and Safety Code section 19958.5, including expert fees,
 10 reasonable attorney's fees, and costs, pursuant to Code of Civil Procedure section 1021.8.

11 **SECOND CAUSE OF ACTION**

12 **(Against All Defendants)**

13 (Injunctive Relief–Failure to Comply with Civil Code section 54)

14 29. On or about February 4, 2002, a private citizen lodged a complaint with Plaintiff alleging
 15 that he had previously lodged a complaint on or about October 6, 2001 with Defendants alleging that
 16 the curb ramp at the corner of Throckmorton and Miller Avenues in Mill Valley did not comply with
 17 the California disabled access statutes and regulations. He further alleged that Defendants failed to
 18 adequately investigate and resolve his complaint. Plaintiff is informed and believes, and on that basis
 19 alleges, that this curb ramp was a public facility within the meaning of Civil Code section 54. Plaintiff
 20 conducted an investigation and determined that Defendants failed to properly investigate and resolve
 21 the complaint, and that, as of July 15, 2003, the curb ramp at the corner of Throckmorton and Miller
 22 Avenues did not comply with Civil Code section 54, subdivision (c).

23 30. On or about September 25, 2002, a private citizen lodged a complaint with Plaintiff alleging
 24 that he had lodged a complaint on that same date with Defendants alleging that the disabled parking
 25 space on East Blithesdale in front of the Outdoor Art Club and the sidewalk alongside it at the corner
 26 of Blithesdale and Throckmorton Avenues in Mill Valley did not comply with the California disabled
 27 access statutes and regulations. Plaintiff is informed and believes, and on that basis alleges that East
 28 Blithesdale and the sidewalk along it at the corner of Throckmorton Avenue are public facilities within

1 the meaning of Civil Code section 54. Plaintiff conducted an investigation and determined that
2 Defendants failed to adequately investigate and resolve the complaint and that, as of July 15, 2003,
3 the disabled parking space on East Blithedale in front of the Outdoor Art Club and the sidewalk
4 alongside the corner of Blithedale and Throckmorton Avenues did not comply with Civil Code
5 section 54, subdivision (c).

6 31. On or about March 2, 2002, a private citizen lodged a complaint with Plaintiff alleging that
7 he had previously lodged a complaint with Defendants on or about October 6, 2001, alleging that the
8 restroom at the Mill Valley library was not in compliance with the California disabled access statutes
9 and regulations. Plaintiff conducted an investigation of the private citizen's complaint and determined
10 that the Defendants failed to properly investigate and resolve the complaint, and that, as of July 15,
11 2003, the signage on the restroom doors was not in compliance with Civil Code section 54,
12 subdivision (c), because the lettering on the restroom signs did not provide 70% contrast.

13 32. The allegations contained in Paragraphs 29 through 31 above establish that Defendants have
14 failed to comply with Civil Code section 54, subdivision (c). Plaintiff is informed and believes, and
15 based upon such information and belief alleges that Defendants' failure to comply is due to defective
16 or inadequate policies, practices, and procedures for preventing and correcting violations of Civil Code
17 sections 54, and the failure to provide adequate disabled access training to their employees who are
18 responsible for disabled access enforcement.

19 33. Plaintiff is entitled to injunctive relief enjoining Defendants to comply with Civil Code
20 section 54.

21 34. Plaintiff is entitled to all costs of investigating and prosecuting actions pursuant to Civil
22 Code section 54, including expert fees, reasonable attorney's fees, and costs, pursuant to Code of Civil
23 Procedure section 1021.8.

24 **NECESSITY FOR EQUITABLE RELIEF**

25 35. In view of the foregoing, and by the nature of the allegations, except as specifically
26 pled above, there exists no adequate remedy at law. Further, the various violations of law alleged
27 result in irreparable harm to the People of the State of California, and the balance of hardships weighs
28 in favor of the People.

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PRAYER

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Wherefore, the Attorney General requests the following relief:

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1. For a writ of mandamus compelling Defendants to meet their mandatory duty to enforce Government Code section 4450 et seq., Health and Safety Code section 19955 et seq., and Title 24;

6

2. For a permanent injunction enjoining Defendants to comply with Civil Code section 54;

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3. For appointment of a monitor, selected by the Plaintiff, to oversee Defendants' implementation of the Court's orders;

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4. For costs of investigating and prosecuting this action, including expert fees, reasonable attorney's fees, and costs; and

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5. For other equitable and legal relief as the Court deems appropriate.

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Dated: January 26, 2004

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Respectfully submitted,

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Attorney General of the State of California
LOUIS VERDUGO, JR.
Senior Assistant Attorney General
SUZANNE AMBROSE
Supervising Deputy Attorney General

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By: _____

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General of the State of California

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