



City of Santa Barbara
Community Development

Memorandum

DATE: August 25, 2016

TO: Building & Fire Code Board of Appeals

FROM: Andrew Stuffer, Chief Building Official

SUBJECT: REVISED: Staff Report for Appeal Regarding 28 Anacapa St, Unit E

On August 29, 2013, an application was made for a permit to: *“Slurry seal and restripe parking lot and add three additional accessible parking spaces, an ADA path of travel, and removal of 350 sq. ft. of planting area. New entry gate is not to be opened until a plan is approved for adjacent site at 28 & 32 Anacapa St.”*

On July 22, 2014, an application was made for a permit to: *“Partially abate violations in ENF2013-00453 to include: Tenant improvements to Units A-1, B, C-1, D, and E. Other unit improvements under separate permit. Construct a new parking lot, accessible parking space, loading area, ramp, stair, deck, and trash enclosure for an (e) non-residential building. No new tenants may occupy any of the tenant spaces until all the parking lot improvements are made on this permit. Access to the adjacent City Parking Lot (permitted under BLD2013-01826) will not be allowed until this parking lot is constructed and accessible path of travel is completed.”*

On July 16, 2015, a tenant improvement permit application was made for *“Interior alteration of 573 sq.ft. for new restaurant; install new rooftop equipment. Per Zoning, there can be a maximum of 9 inside seats and 0 outside seats for this restaurant.”* Outdoor seating was proposed on the deck that was previously constructed as the accessible path of travel via the July 22, 2014 permit above. During this plan check, the City could not approve the proposed outdoor seating due to the reductions in accessible path of travel width¹. The project architect and business owner were aware of this and chose to continue with the tenant improvement and a code compliant exterior deck serving as the required path of travel to exits, other tenant spaces and the public way.

Once opened in March of 2016, the new brewery in this building has been very successful and frequently has more patrons than can be seated. Consequently, the brewery would like to legally establish more seating.

In June of 2016, a complaint was filed with the City for illegal outdoor seating at the Brass Bear Brewery that encroached into the accessible path of travel.

¹ The California Building Code, Section 11B 403.5.1 exception #3 (attached)

On July 25, 2016, a new permit application was submitted to: “*Install two fixed outdoor dining tables on the exterior deck for Brass Bear Brewing.*” Unfortunately, the exterior seating that is proposed encroaches into the minimum required 48” path of travel and exit discharge. Since the brewery use was established in 2015 via a fully code compliant set of plans and permits, staff cannot reduce the 48” path of travel width requirement by citing the “existing conditions” provisions found in Section 11B 403.5.1 exception #3 of the 2013 California Building Code.

SUMMARY

In this case, the occupancy changed from a hair salon to a brewery in 2015 and the required 48” wide path of travel was provided for the required exit discharge system and accessible path of travel between the City parking lot and Anacapa Street. Even though the core building is much older, the deck area and current occupancy were significantly altered within the past 3 years and include a fully compliant accessible path of travel. With this in mind, staff finds that the minimum path of travel width must be 48”.

Staff feels that it is important to note the implications of approving this appeal. If this request for reductions in the minimum required accessible path of travel width is approved because of a 2015 “existing condition”, then staff expects that building designers will design compliant accessible paths of travel at the time of an initial tenant permit application, and after final inspection approval, submit another permit application with a hardship request due to “existing conditions” that were created by the initial tenant improvement permit. Staff believes that this outcome would circumvent the intended accessible path of travel requirements of the code.

DIVISION 4: ACCESSIBLE ROUTES

11B-401 General

11B-401.1 Scope. The provisions of *Division 4* shall apply where required by *Division 2* or where referenced by a requirement in this *chapter*.

11B-402 Accessible routes

11B-402.1 General. Accessible routes shall comply with 11B-402.

11B-402.2 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of *Division 4*.

11B-403 Walking surfaces

11B-403.1 General. Walking surfaces that are a part of an accessible route shall comply with *Section 11B-403*.

11B-403.2 Floor or ground surface. Floor or ground surfaces shall comply with *Section 11B-302*.

11B-403.3 Slope. The running slope of walking surfaces shall not be steeper than 1:20. The cross slope of walking surfaces shall not be steeper than 1:48.

Exception: The running slope of sidewalks shall not exceed the general grade established for the adjacent street or highway.

11B-403.4 Changes in level. Changes in level shall comply with *Section 11B-303*.

11B-403.5 Clearances. Walking surfaces shall provide clearances complying with *Section 11B-403.5*.

Exception: Within employee work areas, clearances on common use circulation paths shall be permitted to be decreased by work area equipment provided that the decrease is essential to the function of the work being performed.

11B-403.5.1 Clear width. Except as provided in *Sections 11B-403.5.2* and *11B-403.5.3*, the clear width of walking surfaces shall be 36 inches (914 mm) minimum.

Exceptions:

1. The clear width shall be permitted to be reduced to 32 inches (813 mm) minimum for a length of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1219 mm) long minimum and 36 inches (914 mm) wide minimum.
2. The clear width for walking surfaces in corridors serving an occupant load of 10 or more shall be 44 inches (1118 mm) minimum.
3. The clear width for sidewalks and walks shall be 48 inches (1219 mm) minimum. When, because of right-of-way restrictions, natural barriers or

other existing conditions, the enforcing agency determines that compliance with the 48-inch (1219 mm) clear sidewalk width would create an unreasonable hardship, the clear width may be reduced to 36 inches (914 mm).

4. The clear width for aisles shall be 36 inches (914 mm) minimum if serving elements on only one side, and 44 inches (1118 mm) minimum if serving elements on both sides.

5. The clear width for accessible routes to accessible toilet compartments shall be 44 inches (1118 mm) except for door-opening widths and door swings.

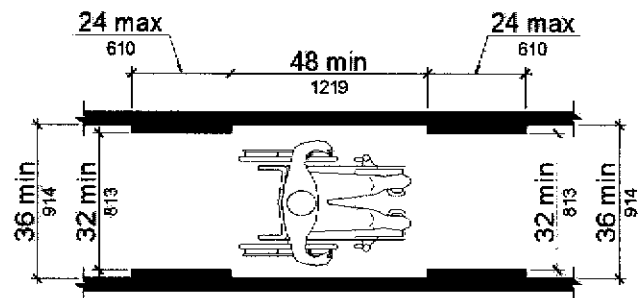


FIGURE 11B-403.5.1
CLEAR WIDTH OF AN ACCESSIBLE ROUTE

11B-403.5.2 Clear width at turn. Where the accessible route makes a 180 degree turn around an element which is less than 48 inches (1219 mm) wide, clear width shall be 42 inches (1067 mm) minimum approaching the turn, 48 inches (1219 mm) minimum at the turn and 42 inches (1067 mm) minimum leaving the turn.

Exception: Where the clear width at the turn is 60 inches (1524 mm) minimum compliance with *Section 11B-403.5.2* shall not be required.

11B-403.5.3 Passing spaces. An accessible route with a clear width less than 60 inches (1524 mm) shall provide passing spaces at intervals of 200 feet (60,960 mm) maximum. Passing spaces shall be either: a space 60 inches (1524 mm) minimum by 60 inches (1524 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with *Section 11B-304.3.2* where the base and arms of the T-shaped space extend 48 inches (1219 mm) minimum beyond the intersection.

11B-403.6 Handrails. Where handrails are provided along walking surfaces with running slopes not steeper than 1:20 they shall comply with *Section 11B-505*.

11B-403.7 Continuous gradient. All walks with continuous gradients shall have resting areas, 60 inches (1524 mm) in length, at intervals of 400 feet (121,920 mm) maximum. The resting area shall be at least as wide as the walk. The slope of the resting area in all directions shall be 1:48 maximum.



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

REQUEST FOR APPEALS BOARD HEARING

Property Address 28 Anacapa St. Unit E, Santa Barbara, CA 93101 APN 033-113-009 Date Aug 11, 2016
 Owner's Name Hughes Land Holding Trust
 Owner's Address 22 Anacapa St. Studio D, Santa Barbara, CA (Phone) 805-331-8281
 Owner's Email Address kandthughes@gmail.net

Decision Being Appealed

A brief statement specifying order or action protested:

The Chief Building Official does not support the request to reduce the required minimum 48" wide walk to accommodate outdoor seating and standing area.

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

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

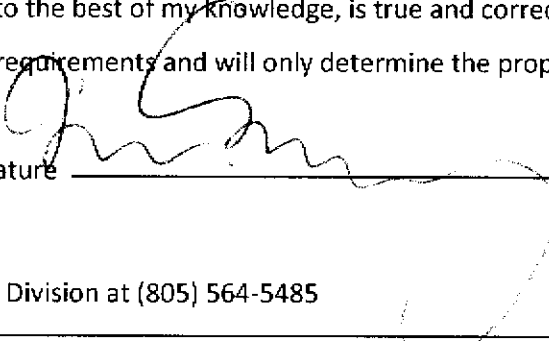
Our clients, Brass Bear Brewery, are in search of a solution that provides approved seating for their small restaurant. A solution that meets the intent of the code and is legal and approved. Due to the constraints of the existing development we are asking for a small exception to the width of the walkway for four exterior seats

Please see the separate further explanation

Within 30 days you will be given notice of the date of your hearing.

Signature

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

Signature 

Questions

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

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

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

SHERRY AND ASSOCIATES, ARCHITECTS
535 SANTA BARBARA STREET
SANTA BARBARA, CA 93101
(805) 963-0986

DATE: Aug 11, 2016

TO: Appeals Board
Building and Safety
City of Santa Barbara
P.O. Box 1990
Santa Barbara, CA 93102-1990

FROM: Dawn Sherry
Sherry and Associates, Architects
535 Santa Barbara St.,
Santa Barbara, CA 93101
(805) 963-0986
dawn@dawnsherry.com / lauren@dawnsherry.com

RE: Request for Appeal Board Hearing for 28 Anacapa St. Unit E;
APN 051-180-029; C-2/ SD-2

Dear Appeals Board,

We feel that the request for the reduction in the required path width secures an appropriate improvement to the success of the lease space. Adjacent to this existing building is a new ADA path of travel from Cabrillo Blvd to the property. Due to the existing parking lot and adjacent structures, a similar waiver was granted by the Building Official. Our situation is very much like this one, an existing driveway on one side (in lieu of the parking structure), but both adjacent to the same existing structures. The existing structures are very old and extensive cost and effort has been spent renovating these buildings to maintain the unique character of the Funk Zone. We feel that this effort is admirable. The property owner could have chosen to demolish the existing building in order to obtain exterior south facing dining with the 48" width path. We feel it would have been a shame to do so. We feel the exception to the code for existing structures was written for this exact purpose; to provide a means to meet the intention of the ADA while not requiring existing structures to be demolished completely when a property owner has a need to upgrade, repurpose, and otherwise improve the property.

The Building Official may not be seeing this condition as an existing constraint, but in fact it is. In order to provide a 48" wide walkway in addition to the smallest width of exterior seating, we would need to remove the south wall of the building and the roof, as well as construct a new foundation under a new wall. This would essentially require significant (if not complete) demolition and reconstruction of this building. The driveway is existing and being maintained at its very minimum 10' wide dimension. A small landscape planter was essential for softening the driveway and required by the Architectural Board of Review, for good reason, we feel. The landscape planter provides a basis for the planting on the exterior railing. We constructed the deck and accessible path of travel as wide as we were able to do.

Had this been an enclosed deck with seating along it, only 36" would have been required. It is the exterior path requirement that is 48". In other words, had the Owner decided to add enclosed space rather than exterior patio, only 36" would have been required. We felt the exterior dining was much more suitable and a much better design for this property.

While exterior dining is not "required" for this development, we feel that this request for the exception to the code is an appropriate one for this existing condition. The small amount of seating we are requesting may not seem significant in terms of necessity for the success of this small restaurant, but it is. Sales have dropped 30% due to not having the exterior seating which not only gives the restaurant almost 50% more seating (significant in and of itself when we are only allowed 9 seats), but serves as an attraction to passersby, indicating activity at the end of the long driveway. Without this, many pedestrians simply pass right by and the entire south side of the building, the entrances to five lease spaces of art galleries and wine tasting businesses, is vacant and void of activity. Multiple times a day the Owner has potential customers request outdoor seating, informs them there is none and watches them walk away.

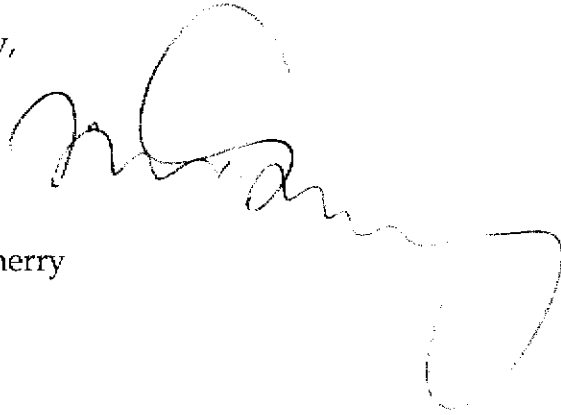
Were there another option to the ADA path from the rear parking lot, we would have incorporated it, but the lot is too narrow due to the driveway on the south and the close proximity of the property line to the north.

A similar situation occurred at another property for which we requested (and were granted) a waiver on the west side of the structure at 9 to 21 West Ortega. A small existing driveway to the rear parking lot served as the only means to access the ADA parking. We requested and were granted a width exception to provide a 36" ADA pathway from Ortega Street to the rear parking lot.

In summary, our clients, Brass Bear Brewery, are in search of a solution that provides approved seating for their small restaurant. A solution that meets the intent of the code and is legal and approved. Due to the constraints of the existing development we are asking for a small exception to the width of the walkway for four exterior seats. The width we are proposing is the same required for interior access throughout a space. The seating will provide much needed energy to the site and secure the success of the restaurant, also contributing to the other surrounding developments.

We look forward to your review of this statement. Please do not hesitate to call us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dawn Sherry". The signature is fluid and cursive, with a large initial "D" and "S".

Dawn Sherry

proposal is for new outdoor dining and standing area, not an existing condition.

3) As was discussed at the counter when this project was first proposed, the minimum 48" wide path must be provided for accessibility.

4) If the 48" wide path can be provided, new plumbing fixture calculations would need to be done for the unit associated with this proposal to ensure enough plumbing fixtures are provided for the new occupant load.

Initial Review - Flood Zone

8/2/16

CMH CNTR

1) Add a note to the cover sheet of the plans stating "This project is within a FEMA Special Flood Hazard Area."

2) Show the elevation of the deck and the Base Flood Elevation on the plan so that it is clear that all work is above the BFE.

Following is a legend describing the meaning of each disposition:

- PLCK** - The plans must be routed internally to the reviewer, no OTC review.
- CNTR** - A minor item may be checked at the appropriate counter (Zoning, Fire, etc)
- NEED** - A minor item or document may be handled at the Building & Safety counter.
- OK1** - The reviewer has reviewed and approved one set of plans.
- OK2** - The reviewer has reviewed and approved two set of plans.
- NA** - No review necessary by this Division.
- INC** - The submittal was incomplete as submitted and will require another Initial Review.

Contacts: For questions regarding each reviewer's corrections, please call the number given by the reviewer (if provided.) Otherwise, call the appropriate number from the list below:

Zoning Plan Check 564-5470

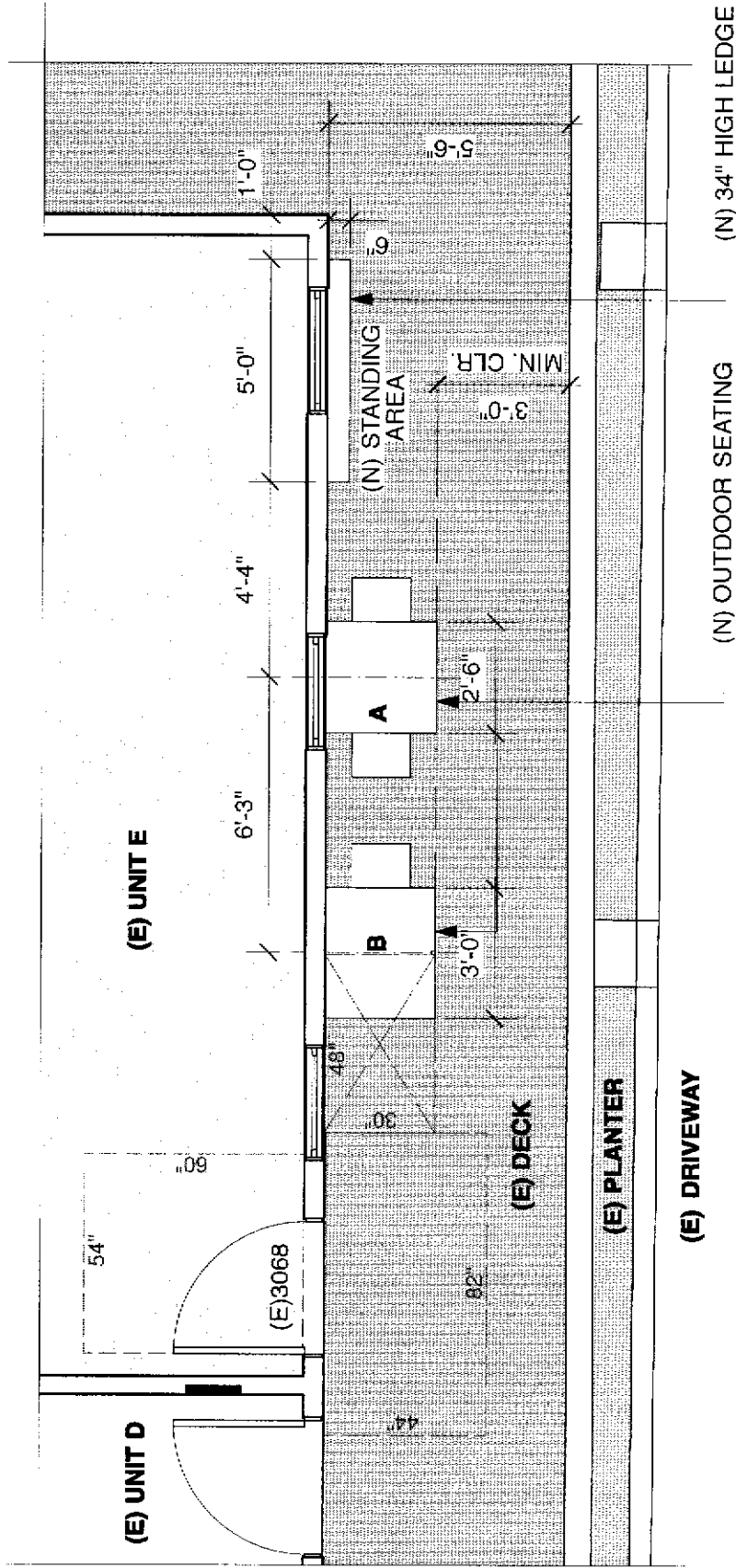
Fire Dept. Review 564-5485 x1970 & 564-5702

PW Cross-Connection 564-5413

PW Engineering Review 564-5363

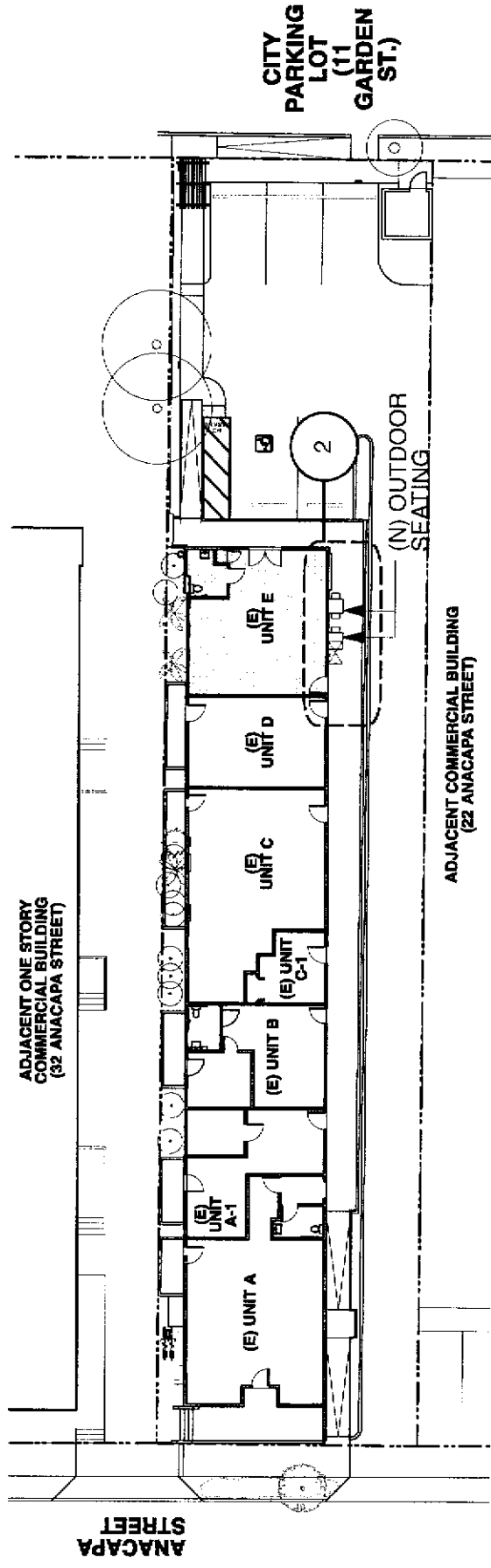
PW Transportation Review 564-5385

Building & Safety Review 564-5485



ENLARGED SITE PLAN - EXISTING AND PROPOSED

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



SITE PLAN - EXISTING AND PROPOSED

SCALE: 1" = 30'-0"

