

Slip, Trip & Fall Analysis



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GENERAL INQUIRY

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www.petefowler.com



Pete Fowler
CONSTRUCTION
Services, Inc.

INTRODUCTION

The world is a dangerous place. And while falling down in your teens is often funny, falling down when you're grown-up hurts and people are often injured. Combine that fact with a society that has become more and more litigious, and we have arrived in a time where **Slip, Trip and Fall Claims** are common. And when there is a claim, someone needs to figure out if the condition is a danger and render a thoughtful opinion about whether or not it caused or contributed to the fall.

Slip, Trip and Fall Analysis is a 1-hour walk through Pete Fowler Construction Services' (PFCS) Construction Claims Analysis Method applied to personal injury claims that occur as a result of a hazard in the built environment. No two claims are the same, but our analytical method walks us through a professional investigation and analysis, similar to how the scientific method aids in discovery of the workings of our natural world, regardless of the specifics of the claim.

PROGRAM OUTLINE

1. Introduction
2. Method
3. Investigation
4. Analysis
5. Conclusions
6. Presentation
7. Conclusion

LEARNING OBJECTIVES

- Introduce a framework for conducting a professional investigation of a personal injury that occurred in a built environment.
- Gain a big-picture perspective on handling slip, trip and fall investigations from a building expert perspective.
- Review Case Studies of numerous project types.
- Discussion of options for report formats.
- Look at actual project deliverables.

BACK-UP MATERIALS

1. Opinion Letter (PFCS 07-373)
2. Inspection Summary (PFCS 14-274)
3. Report with Analysis & Conclusions (PFCS 14-292)
4. PFCS Declaration (PFCS 14-274)
5. Presentation (Personal Injury) Sample (PFCS 06-175)

PROGRAM CONTENTS

1. Introduction
 - A. Presenter Information
 - B. Webinar Materials
 - C. CE Certificates
 - D. Feedback
 - E. Learning Objectives
 - F. Program Introduction / Summary
 - G. Resources
2. Method
 - A. Case Study
 - B. Scientific Method
 - C. PFCS Construction Claims Analysis Method
 - D. Document Management
 - E. Plan
 - F. Issues / Allegations
3. Investigation
 - A. Case Study
 - B. Project Information
 - C. Building Information Management
 - D. Interviews, Statements, & Testimony
 - E. Inspection
 - F. Testing
4. Analysis
 - A. Case Study
 - B. What Really Happened?
 - C. State & Federal Laws
 - D. Building Codes & Standards
 - E. Other Standards
 - F. Danger
5. Conclusions
 - A. Case Study
 - B. Awesome Work
 - C. A Sensible List
 - D. Reasoning
 - E. Communication in Writing
 - F. Expert Coordination
 - G. Conclusions
6. Presentation
 - A. Case Study
 - B. Expert Witness Designation
 - C. Report Formats
 - D. Report Sections
 - E. Expert Declaration
 - F. Presentations
 - G. Deposition
 - H. Arbitration
 - I. Trial
7. Conclusion
 - A. Learning Objectives
 - B. Program Outline
 - C. Back-Up Materials
 - D. Webinar Materials
 - E. CE Certificates
 - F. Feedback

We know buildings

EXPERTISE

PROJECT MANAGEMENT

TECHNOLOGY

STANDARDS

RESULTS

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Slip, Trip & Fall Analysis



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December 17th, 2015

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1. INTRODUCTION

PFCS: We Know Buildings



www.petefowler.com

1. INTRODUCTION

PFCS: Who We Are

SOLUTIONS

We specialize in creating **REAL PRACTICAL SOLUTIONS** that help our clients spend the right amount, on the right work, at the right time.



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1. INTRODUCTION

PFCS: We Know Buildings



CLIENTS

- Property Owners & Managers
- Builders & Developers
- Contractors
- Product Manufacturers
- Insurers
- Lawyers


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1. INTRODUCTION

The PFCS Way: SOLUTIONS

- **EXPERTISE:** Technical experts who are focused on real practical solutions is surprisingly hard to find. We found them. And we work to keep that focus.
- **PROJECT MANAGEMENT:** To deliver valuable work with measurable return on investment (ROI), we have to manage the Scope, Budget and Schedule of our work.
- **TECHNOLOGY:** We use proprietary technology to create valuable work faster, better and cheaper, to make the information available to all applicable stakeholders, and to create a permanent digital record at no extra cost.
- **STANDARDS:** To help clients manage building lifecycle performance and costs, we compare each project to industry standards and best practices, then apply professional judgment to develop strategies and step-by-step plans for maximizing ROI for maintenance and repair expenditures.


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PFCS Services

CLAIMS & LITIGATION

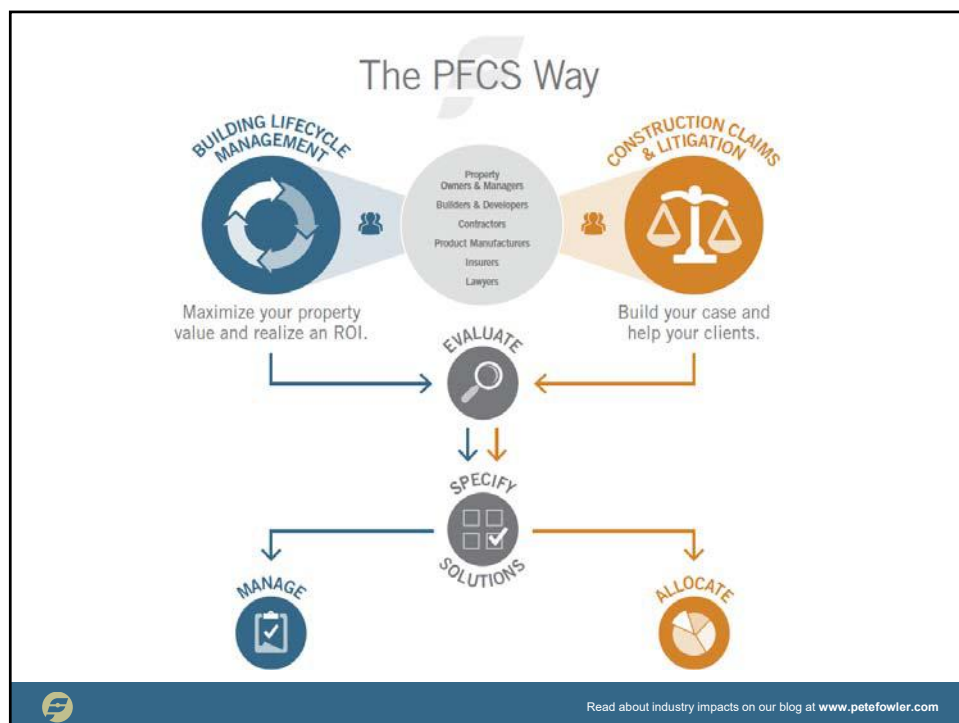
- Construction Defect Litigation (Also see BLM)
- General (Property) Liability Claims
- Construction Accidents
- Traditional Claims related to contracts, payments, performance, change orders and delays

BUILDING LIFECYCLE

- Building Inspection, Testing and Property Assessment
- Specifications for Building Maintenance and Repairs
- Construction Budgets and Cost Estimating
- Construction Management
- Quality Assurance Plans and Inspections



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The PFCS Way

ON ALL PROJECTS

Building Information Management: We pick up where Zillow and Google leave off. We use technology to collect, organize, structure and store documents and building info forever.

Evaluate Performance: We perform structured building inspection and testing evaluations, exceeding the highest standards.

Specify Solutions: We analyze, report, make recommendations and compose specifications and estimates for construction, maintenance & repairs.

BLM OR LITIGATION?

Manage Quality: We apply professional construction management discipline to get work done, and create and execute construction quality assurance plans.

Allocate Responsibility: For insurance and legal clients we use our expertise in evaluating, specifying and managing construction to compare what happened in problem projects to what should have. We apply professional judgment to allocate responsibility.



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Program Outline

1. Introduction
2. Method
3. Investigation
4. Analysis
5. Conclusions
6. Presentation
7. Conclusion



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1. INTRODUCTION

A black silhouette of Sherlock Holmes, shown from the chest up, facing left. He is wearing his iconic deerstalker hat and a smoking pipe is visible in his mouth. He is holding a magnifying glass in his right hand, which is raised towards his face.

"Things must
be done
decently and
in order."
- Sherlock
Holmes

1. INTRODUCTION

Introduction

- Presenter Information
- Webinar Materials
- CE Certificates
- Feedback
- Learning Objectives
- Program Introduction Key Points / Summary



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Pete Fowler

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Find him on [LinkedIn!](#)



Read about industry impacts on our blog at www.petefowler.com



Paul Kushner

CONNECT WITH PAUL

Call 949.240.9971

Email pk@petefowler.com

Find him on [LinkedIn!](#)

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1. INTRODUCTION

Webinar Materials

PFCs Client Access Projects Publications **Seminars** Users

PFCs Webinar 1/30/2014: Building Life Cycle Management


Seminar Information


Event Date	01/30/2014
Event Time	10:00am
Location	Online via GoToWebinar

Video

There is no video version of this presentation available.

Attachments / Backup Materials

File
 Backup Materials

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1. INTRODUCTION

CE CERTIFICATES WILL BE SENT OUT WITHIN 3 BUSINESS DAYS

(There is no need to contact us, Certificates of Attendance are sent to all who logged in for the seminar).



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1. INTRODUCTION

Your Feedback is Important

SURVEY SAYS!



You will receive a survey link immediately following the webinar. We put a lot of effort into providing these programs free of charge, we just ask that you take a few seconds to leave your feedback on today's presentation



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1. INTRODUCTION

Learning Objectives

- Introduce a framework for conducting a professional investigation of a personal injury that occurred in a built environment
- Gain a big-picture perspective on handling slip, trip and fall investigations from a building expert perspective
- Review Case Studies of numerous project types
- Discussion of options for report formats
- Look at actual project deliverables

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1. INTRODUCTION

Program Introduction

WHY THIS IS IMPORTANT

The world is a dangerous place. And while falling down in your teens is often funny, falling down when you're grown-up hurts and people are often injured. Combine that fact with a society that has become more and more litigious, and we have arrived in a time where **Slip, Trip and Fall Claims** are common. And when there is a claim, someone needs to figure out if the condition is a danger and render a thoughtful opinion about whether or not it caused or contributed to the fall.

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1. INTRODUCTION

Program Introduction

Slip, Trip and Fall Analysis is a 1-hour walk through Pete Fowler Construction Services' (PFCS) Construction Claims Analysis Method applied to personal injury claims that occur as a result of a hazard in the built environment. No two claims are the same, but our analytical method walks us through a professional investigation and analysis, similar to how the scientific method aids in discovery of the workings of our natural world, regardless of the specifics of the claim.



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2. METHOD

“To the logician all things should be seen exactly as they are, and to underestimate oneself is as much a departure from truth as to exaggerate one’s own powers.”

- The Memoirs of Sherlock Holmes
by Sir Arthur Conan Doyle

2. METHOD

Method

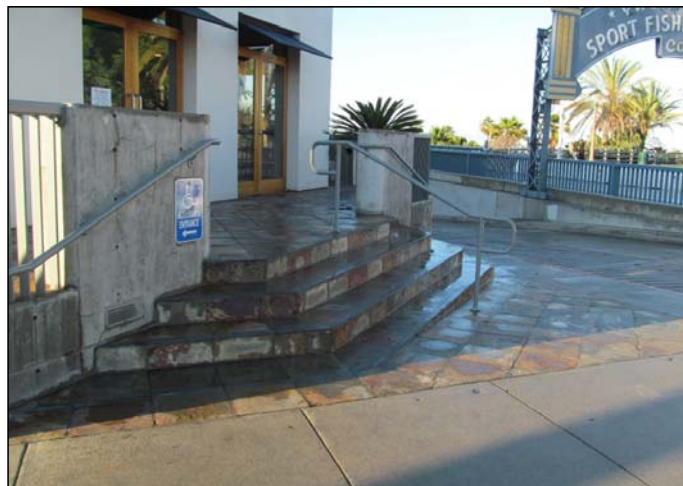
- Case Study
- Scientific Method
- PFCS Construction Claims Analysis Method
- Document Management
- Plan
- Issues/Allegations



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2. METHOD

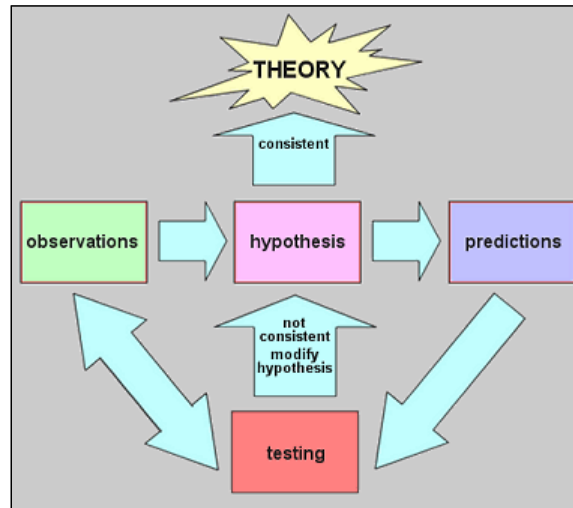
Case Study



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2. METHOD

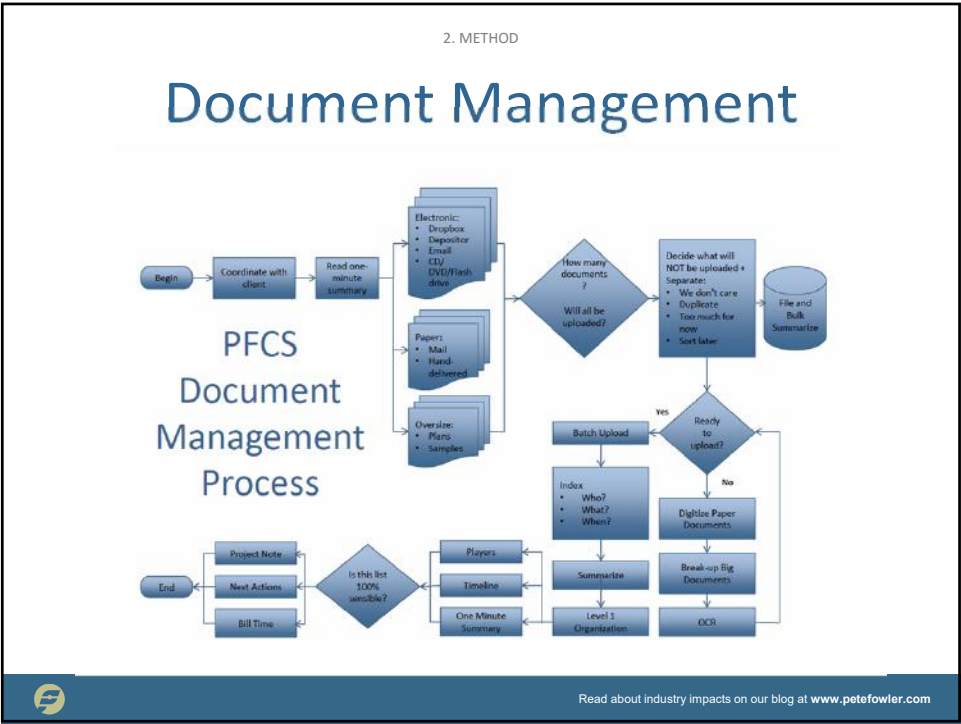
Scientific Method

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2. METHOD

PFCS Construction Claims Analysis Method

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2. METHOD

Plan

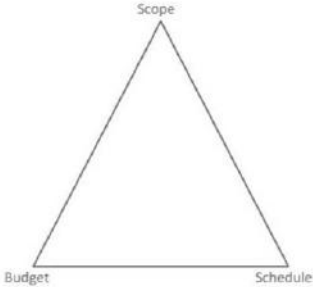
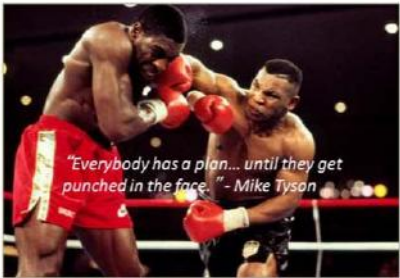
A SIMPLIFIED SCOPE, BUDGET & SCHEDULE

Scope	Budget	Schedule
Item 1	\$XXX	Week 1
Item 2	\$XXX	Week 2
Item 3	\$XXX	Week 3
Item 4	\$XXX	Week 3
Item 5	\$XXX	Week 4
TOTAL	\$X, XXX	

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2. METHOD

Plan



Scope	Budget	Actual	Schedule
1. Item 1	\$ XXX	\$ XXX	Plan/Actual
2. Item 2	\$ XXX	\$ XXX	Plan/Actual
3. Item 3	\$ XXX	\$ XXX	Plan/Actual
4. Item 4	\$ XXX	\$ XXX	Plan/Actual
5. Item 5	\$ XXX	\$ XXX	Plan/Actual
6. TOTAL	\$ X,XXX	\$ X,XXX	



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2. METHOD

Issues / Allegations

**“A PROBLEM WELL STATED IS A PROBLEM
HALF-SOLVED.”**

CHARLES KETTERING

© Lifehack Quotes



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3. INVESTIGATION

“We approached the case, you remember, with an absolutely blank mind, which is always an advantage. We had formed no theories. We were simply there to observe and to draw inferences from our observations.”

- Sherlock Holmes in
The Adventure of The Cardboard Box

3. INVESTIGATION

Investigation

- Case Study
- Project Information
- Building Information Management
- Interviews, Statements, Testimony
- Inspection
- Testing



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3. INVESTIGATION

Case Study

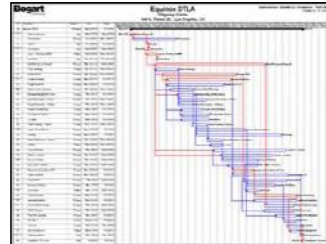


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3. INVESTIGATION

Project Information

- Players
- Timeline of Events
- Images
- Plans



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3. INVESTIGATION

Building Information Management

Addresses - Locations - Elements - Issues/Defects



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3. INVESTIGATION

Interviews, Statements, Testimony

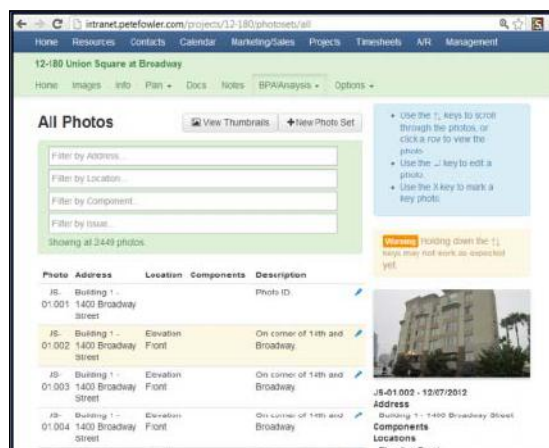


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3. INVESTIGATION

Inspection

- Photographs
- Measurements
- Maps
- Plans
- Details



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3. INVESTIGATION

Testing

- Standards
- Devices
- Locations
- Summary
- Maps
- Analysis



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4. ANALYSIS

“It is a capital mistake to theorize before one has data. Insensibly one begins to twist facts to suit theories, instead of theories to suit facts.”

- Sherlock Holmes

4. ANALYSIS

Analysis

- Case Study
- What Really Happened?
- State & Federal Laws
- Building Codes & Standards
- Other Standards
- Danger



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4. ANALYSIS

Case Study



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4. ANALYSIS

What Really Happened?



<http://doubtfulnews.com/2015/05/what-happened-to-the-dinosaurs-they-are-used-to-indoctrinate-children/>



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4. ANALYSIS

State & Federal Laws

- Americans with Disabilities Act of 1990 including the ADA Accessibility Guidelines (ADAAG)
- Occupational Safety and Health Administration (OSHA)
- State Laws including Cal-OSHA and others
- Local Ordinances
- Is the injured party part of a "Protected Class"?



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4. ANALYSIS

Building Codes

- Historic Codes
- Uniform Building Code (UBC)
- International Building Code (IBC)
- National Fire Protection Association (NFPA)
- Other Applicable Building Codes



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4. ANALYSIS

Other Standards

- ASTM
- ANSI
- CTOA
- UL
- Many Others



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4. ANALYSIS

Danger



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5. CONCLUSIONS

“It is of the highest importance in the art of detection to be able to recognize, out of a number of facts, which are incidental and which vital. Otherwise your energy and attention must be dissipated instead of being concentrated.”

- Sherlock Holmes in The Reigate Puzzle, 1893

5. CONCLUSIONS

Conclusions

- Case Study
- Awesome Work
- A Sensible List
- Reasoning
- Communication in Writing
- Expert Coordination
- Conclusions



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5. CONCLUSIONS

Case Study

1 [REDACTED] LLP
2 [REDACTED]
3 Los Angeles, California 90017
4 Telephone: (213) [REDACTED]
5 Facsimile: (213) [REDACTED]
6 Attorneys for Defendants/Cross-Complainants/Cross-Defendants
7 [REDACTED] CONSTRUCTION, INC., [REDACTED] MEDICAL
8 CENTER LLC and [REDACTED] LTD, LLC
9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES, NORTH DISTRICT
12
13 DAVID [REDACTED] Plaintiff,
14
15 v.
16 [REDACTED] CONSTRUCTION, INC., [REDACTED] CONSTRUCTION
17 [REDACTED] MEDICAL CENTER LLC and [REDACTED] LTD, LLC
18 Defendants.
19
20 AND RELATED CROSS-COMPLAINTS
21
22 I, Peter D. Fowler, do declare and state:
23
24 1. I am over the age of 18 years. I am the founder of a construction consultancy serving
25 the Western U.S. from California and Oregon offices. Our clients are property owners &
26 managers, developers & contractors, product manufacturers & suppliers, insurers and lawyers
27 (plaintiff, defendant and cross defendant). Every year we work on projects as widely varying as single
28 family residences, multi-family projects, mixed use developments, commercial, institutional,
industrial, low-rise, mid-rise and high-rise construction. In addition to a B.S. in Construction
Case No. MC032346
DECLARATION OF PETER D. FOWLER

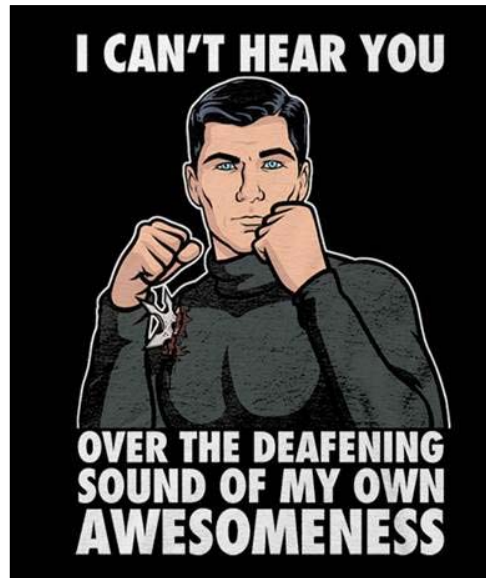
1 8. Based upon (A) [REDACTED]'s incorrect Multi-employer Work Area analysis and (B.) his
2 limited access or analysis of project information, [REDACTED] is in no position to offer opinions as to the
3 allocation of responsibility in this matter, therefore his opinions on this subject of allocation of
4 responsibility to various parties should be ignored.
5
6 I declare under penalty of perjury under the laws of the state of California that the
7 foregoing is true and correct. Executed this 15th day of April, 2015 at San Clemente, California.
8
9 *Peter D. Fowler*
10 Peter D. Fowler
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Case No. MC032346
DECLARATION OF PETER D. FOWLER



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5. CONCLUSIONS

Awesome Work

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5. CONCLUSIONS

A Sensible List

Rules of a WBS

- A Work Breakdown Structure (WBS) is a decomposition of a project into smaller components.
- 100% Rule
- The magical number seven, plus or minus two
- Mutually Exclusive Elements

"A PROBLEM WELL STATED IS A PROBLEM
HALF-SOLVED."

CHARLES KETTERING

© LinkedIn Learning

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5. CONCLUSIONS

Reasoning

rea·son·ing

/ˈrēz(ə)niŋ/

noun

the action of thinking about something in a logical, sensible way.
 "he explained the reasoning behind his decision at a media conference"



Translations, word origin, and more definitions



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5. CONCLUSIONS

Communication in Writing



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5. CONCLUSIONS

Expert Coordination



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5. CONCLUSIONS

Conclusions

- Talking Points
- Conclusions
- Opinions
- Recommendations
 1. SMART
 2. Usable
 3. Actionable
 4. A to Z, 100% Solution



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6. PRESENTATION

"Nothing clears up a case so much as stating it to another person."

- Sherlock Holmes

6. PRESENTATION

Presentation

- Case Study
- Expert Witness Designation
- Report Formats
- Report Sections
- Expert Declaration
- Presentations
- Deposition
- Arbitration
- Trial



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6. PRESENTATION

Case Study



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6. PRESENTATION

Expert Witness Designation

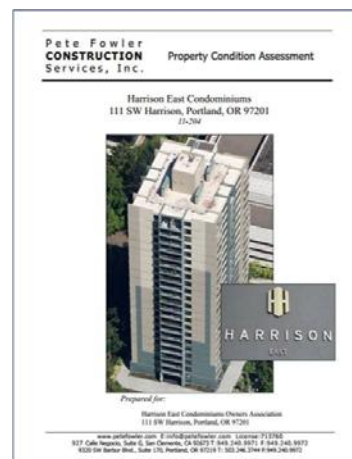


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6. PRESENTATION

Report Formats

- Inspection Documentation
- Inspection Summary
- Project Summary
- Opinion Letter
- Report



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6. PRESENTATION

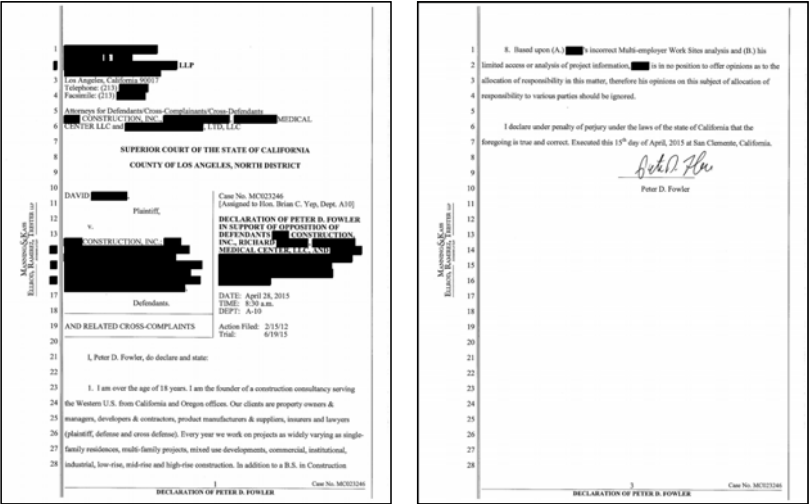
Report Sections



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6. PRESENTATION

Expert Declaration



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6. PRESENTATION

Presentations



Don't put them to sleep!!



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6. PRESENTATION

Deposition



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6. PRESENTATION

Arbitration



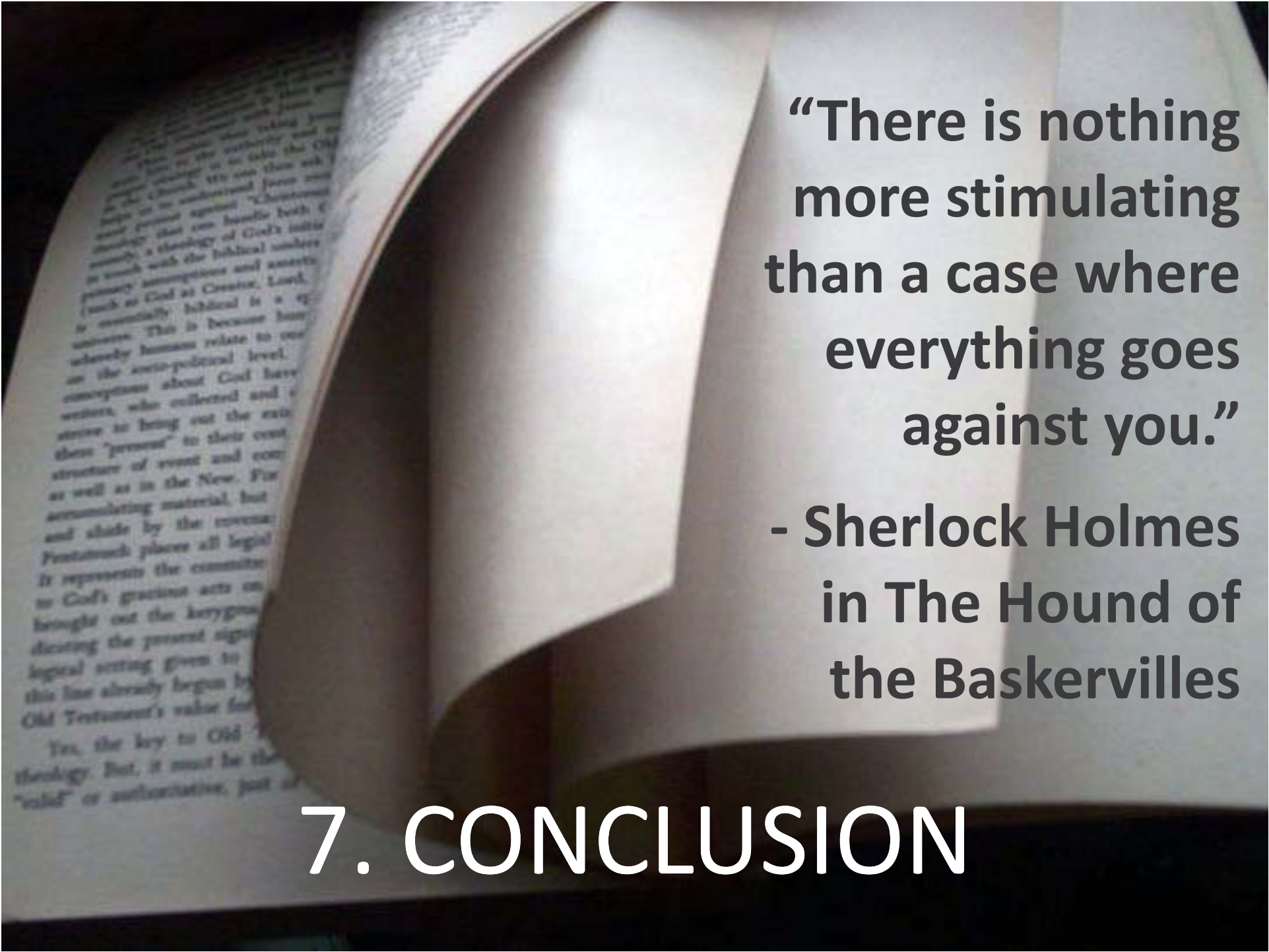
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6. PRESENTATION

Trial



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An open book is shown from a top-down perspective. The left page contains dense, small text, likely from a theological or academic work. The right page is mostly blank, serving as a background for a large, bold quote. The book's spine is visible in the center, and the pages have a slightly aged, off-white color.

**“There is nothing
more stimulating
than a case where
everything goes
against you.”**

**- Sherlock Holmes
in The Hound of
the Baskervilles**

7. CONCLUSION

7. CONCLUSION

Conclusion

- Learning Objectives
- Program Outline
- Back-Up Materials
- Webinar Materials/CE Certificates
- Feedback



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7. CONCLUSION

Learning Objectives

- Introduce a framework for conducting a professional investigation of a personal injury that occurred in a built environment
- Gain a big-picture perspective on handling slip, trip and fall investigations from a building expert perspective
- Review Case Studies of numerous project types
- Discussion of options for report formats
- Look at actual project deliverables



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7. CONCLUSION

Program Outline

1. Introduction
2. Method
3. Investigation
4. Analysis
5. Conclusions
6. Presentation
7. Conclusion



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7. CONCLUSION

Back-Up Materials

1. Opinion Letter
2. Inspection Summary
3. Report with Analysis & Conclusions
4. PFCS Declaration
5. Presentation (Personal Injury) Sample

View these on Client Access at
PFCS Project 15-262



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7. CONCLUSION

Webinar Materials

PFCS Client Access Projects Publications **Seminars** Users

PFCS Webinar 1/30/2014: Building Life Cycle Management


Seminar Information

Event Date	01/30/2014
Event Time	10:00am
Location	Online via GoToWebinar

Video

There is no video version of this presentation available.

Attachments / Backup Materials

File
 Backup Materials

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7. CONCLUSION

CE CERTIFICATES WILL BE SENT OUT WITHIN 3 BUSINESS DAYS

(There is no need to contact us, Certificates of Attendance are sent to all who logged in for the seminar).

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7. CONCLUSION

Your Feedback is Important

SURVEY SAYS!



You will receive a survey link immediately following the webinar. We put a lot of effort into providing these programs free of charge, we just ask that you take a few seconds to leave your feedback on today's presentation



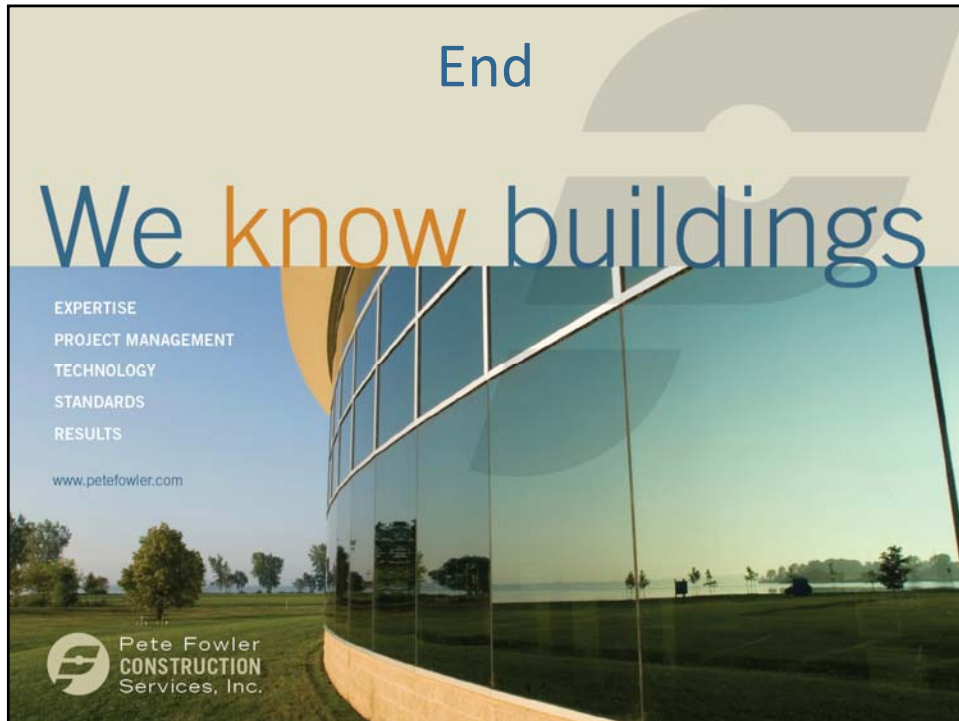
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2016 Webinar Schedule
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End

We know buildings

EXPERTISE
PROJECT MANAGEMENT
TECHNOLOGY
STANDARDS
RESULTS

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 Pete Fowler
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v The

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GENERAL INQUIRY

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Date: January 14, 2015
To: [REDACTED], Esq.
Law Offices of [REDACTED]
[REDACTED]
Glendale, CA 91210
T: (818) [REDACTED]
E: [REDACTED]
From: Pete Fowler Construction Services, Inc.
Project: [REDACTED] (PFCS 14-292)
Regarding: [REDACTED], Santa Monica, CA 90401
Note: Confidential Attorney-Client and Attorney Work Product. Protected under all applicable evidence codes.

Project Overview

This project concerns allegations by Plaintiff Julie [REDACTED] that she tripped and fell on the stairs in front of [REDACTED] in Santa Monica, CA on 2/21/2014. [REDACTED] is a restaurant located at [REDACTED], Santa Monica, CA 90401. Miss [REDACTED] allegedly tripped and fell while exiting the premises.

Plaintiff's 9/10/2014 Demand alleges that on 2/21/2014 at approximately 6:30 p.m., Julie [REDACTED] and five companions had cocktails at [REDACTED] and when exiting the premises, Ms. [REDACTED] began descending the stairs and tripped and fell before reaching the bottom step. Ms. [REDACTED] sustained a fractured right foot requiring surgery. Plaintiff expert Ken [REDACTED] alleges that the staircase was not up to code as the width between the handrails on the staircase at the bottom of the staircase is wider than permitted under Uniform Building Code Section 1003.3.3. Since other patrons were using the handrails, Ms. [REDACTED] could not grab the rail and fell forward causing her awkward landing and fracture. Plaintiff demand is \$50,000.00.

Construction Plan Analysis

PFCS have reviewed a set of construction documents for the property prepared by Howard Laks Associates Architects and Structural drawings prepared by DHLA Structural Consulting Engineers with the last delta revision of 3/31/1998. Both sets of documents are stamped "NOT FOR CONSTRUCTION 4/30/1998". Neither set has any stamps from the Department of Building and Safety of Santa Monica (Building Authority). The plans are not a complete set. The structural sheets are complete, however, the architectural set is missing Sheet A4.1 (Enlarged Bathroom) through A6.5 (Penetration Details).

- The Building Code Data on the Title page indicates that the plans were prepared under the Uniform Building Code 1994 Edition. The occupancy groups are A-3 and S-4 fully sprinklered.
- Sheet A1.2/Site Plan indicates that the fan shaped stairway sits within the property lines and the pathway along Colorado and the Santa Monica Pier/Bridge and outside of the property line. The total width of the entry patio at the top of the staircase is 11'-0" with the concrete walls on each side being of equal width. There is no intermediate railing shown.
- Sheet A2.1/Entry Level Plan shows the same fan staircase configuration. There is no intermediate handrail shown. Keynotes indicate a 1-1/2" diameter pipe handrail (Keynote #15) with a 24" extension along the wall on both sides of the staircase beyond the outside corner.
- Sheet A2.2/Restaurant Level Plan shows the same fan staircase configuration. There is no intermediate handrail shown. Keynotes indicate a 1-1/2" diameter pipe handrail (Keynote #15) with a 24" extension along the wall on both sides of the staircase. General notes state that signs for assembly rooms having greater than 50 occupants should be posted per Section 1002.3.
- Sheet A3.1 Entry Elevation shows the same fan staircase configuration in elevation. There is no intermediate handrail shown.

The design intent is to provide access to the restaurant from the site corner with the required handrails at the sides. No intermediate railing is shown.

Building Code Analysis

The plans for [REDACTED] were prepared under the provisions of the 1994 Uniform Building Code. The property is a dining facility. The front entry portion of the building is situated just above street level and is accessed by an accessible ramp and a fan shaped staircase. The rear portion of the dining facility is cantilevered over the grade level parking spaces. The property is a mixed-use occupancy consisting of the restaurant over an open parking garage. The restaurant portion of the building is used for the gathering together of 50 or more persons for the purpose of consumption of food or drink. This is a Group A Division 3 occupancy. The open parking garage is a Group S Division 3 occupancy. Please see attached Section 303.1.1 and Section 311.1 respectively in conjunction with Table 3-A Description of Occupancies by Group and Division of the 1994 Uniform Building Code.

The entrance to the dining facility is accessed by an accessible ramp and a fan shaped staircase. The staircase forms part of the egress system for the facility. There is another stairway at the left hand elevation. The width of any component of an egress system is based upon the total occupant load. This is in turn multiplied by an applicable factor set forth in Section 1003.2. The [REDACTED] restaurant has a maximum occupant load of 181 persons. The Fire Department Certificate of Maximum Occupant Load is displayed in the dining foyer. The total width of the exits in the facility shall not be less than the total occupant load served by an exit multiplied by 0.3. Consequently, the required total stairway width for the dining facility with a maximum occupant load of 181 patrons is 54.3 inches, which is approximately 3'-8 1/2". There are three exits from the dining facility: one, accessible from the exterior terrace; one, accessible from the kitchen area; and, one, accessible down to the entry foyer. Please see attached Section 1003.2 of the 1994 Uniform Building Code.



Handrails for stairways are governed by the requirements of Section 1006.9 of the 1994 Uniform Building Code. In the event that the required width of the stairway is greater than 88 inches (7'-4"), it is necessary to install an intermediate handrail. Section 1006.9 of the Uniform Building Code places particular emphasis on the fact that the intermediate handrail requirement is based upon the required width of the stairway. In many instances, especially with monumental stairs, the width of the stairs exceeds the minimum width required to satisfy exiting requirements. In such instances it is not necessary to provide intermediate handrails for that portion of the stairway that does not need to meet the required egress capacity. There is no requirement for intermediate handrails under the provisions of the Uniform Building Code 1994 Edition. Please see attached Section 1006.9 of the 1994 Uniform Building Code.

Observation Summary

PFCS conducted a visual inspection of [REDACTED] on 12/17/2014 and documented observations with field notes and photographs.

The entry staircase for [REDACTED] is located at the North West corner of the property at the intersection of [REDACTED] Avenue and the driveway. The driveway is a descending ramp down to pier parking below. The staircase is fan shaped with two triangular sections on each side of the main approach. The sloping public walkway and driveway to the North and the West side create three sections of the staircase with differing total number of risers. The middle rectangular staircase has a total of four risers. The right (West) triangular section has a total of five risers. The left (East) triangular section has a total of three risers. See attached Staircase Floor Plans.

There are three handrails provided at the staircase. The middle rectangular staircase has an intermediate handrail with extensions, greater than 12" at the top and bottom of the run. The left (East) triangular section has a handrail with extensions, greater than 12" at the top and bottom of the run. The right (West) triangular section has a handrail with an extension greater than 12" at the top of the run and an extension of approximately 2-3/4" at the bottom of the run at the pathway. The heights of the handrails above the nosings of the staircase are all in conformance with Code requirements.

Measurements were taken of the risers and treads of the staircase sections. All variances in the depth of the risers and the width of the treads are in conformance with Code requirements. See the attached Staircase Dimension spreadsheet.

Conclusions

The middle rectangular staircase is 123 inches (10'-3" wide) at the top and 161 inches (13'-5") at the bottom. These measurements are wider than the required stairway width of 54.3 inches (3'-8 1/2") based upon the posted Certificate of Maximum Occupant Load. The required width does not exceed 88", therefore, an intermediate handrail is not required. Plaintiff's allegation in the 9/10/2014 Demand that the width between the handrails on the staircase at the bottom is wider than permitted under Uniform Building Code Section 1003.3.3 is incorrect.



There are two handrails at the sides of stairway providing the required handrails on each side of the egress staircase. While the handrails on both sides of the stairway may be sufficient to accommodate the required width they are not directly in the central path of travel. People tend to walk adjacent to handrails and the center portion of a wider than required staircase may experience limited use. Where required handrails are in place patrons tend to use them and the assumed natural path of travel is parallel to them. The installation of the non-required intermediate handrail shifts the assumed natural path of travel to the center of the middle rectangular section of the staircase.

Plaintiff's 9/10/2014 Demand states that "since other patrons were using the handrails, my client could not grab the rail and fell forward causing her awkward landing and fracture. If proper handrails were present, my client's severe injury could have been avoided as she would have been able to grab a handrail. The dangerous condition on your premises was the sole cause of my client's injuries." There are three separate handrails at the staircase. As previously stated, the intermediate handrail is not required. The three handrails provide overlapping zones where the user is within 44" of a handrail at the top of the staircase. The configuration of the handrails at the property meets and exceeds the requirements of the 1994 and 1997 Uniform Building Code except for a minor deviation in the lack of handrail extension at the bottom riser of the West section of the approach stair. The as-built assembly substantially conforms to the requirements of the 1994 and 1997 Uniform Building Code.

Attachments

- Representative Photographs
- Selection of Construction drawings by Howard Laks Associates Architects
- Selection of Uniform Building Code 1994 Editions requirements.
- Staircase Configuration Plan-scaled
- Staircase Field Riser and Tread Measurement Table
- Fire Department Certificate of Maximum Occupant Load.
- Staircase Floor Plan with Handrail Reach



Representative Photographs



PK-01.002; 12/17/2014; Elevation Front; Overview shot with 4 total risers.



PK-01.010; 12/17/2014; Elevation Left; Overview shot with handicapped ramp.



PK-01.015; 12/17/2014; Stairway; From landing looking down towards the intersection of the sidewalk on [REDACTED] and the [REDACTED] driveway off Colorado Street. See A/3. Looking North. See page 2 for general stair widths.



PK-01.017; 12/17/2014; Stairway; From landing looking down towards the intersection of the sidewalk on [REDACTED] and the [REDACTED] driveway off Colorado Street. See A/3. Looking North. See page 2 for general stair widths.



PK-01.021; 12/17/2014; Stairway; From landing looking down towards the intersection of the sidewalk on [REDACTED] and the [REDACTED] driveway off Colorado Street. See A/3. Looking North. See page 2 for general stair widths.



PK-01.023; 12/17/2014; Stairway; From landing looking down towards the intersection of the sidewalk on [REDACTED] and the [REDACTED] driveway off Colorado Street. See A/3. Looking North. See page 2 for general stair widths.



PK-01.029; 12/17/2014; Stairway; Front elevation of stairway looking South, fan shaped stairway with middle section of stairway with 4 risers with bisecting handrail and 2 angled stairway to the East and West. Right hand side (west side) with 5 risers to sloping pathway. Left hand side (east) parallel to Colorado with 3 risers, level with Colorado.



PK-01.049; 12/17/2014; Stairway; Middle section top is +/- 36 13/16" above finished floor at top.



PK-01.053; 12/17/2014; Stairway; Stairway extension is +/- 17 15/16". See A/3 at top.



PK-01.054; 12/17/2014; Stairway; Stairway extension is +/- 17 15/16". See A/3 at top.



PK-01.063; 12/17/2014; Stairway; West risers with 46.4% range between nosing. Quick check west risers 46.7% range between risers.



PK-01.068; 12/17/2014; Stairway; West risers with 46.4% range between nosing. Quick check west risers 46.7% range between risers.



PK-01.094; 12/17/2014; Stairway; West riser section bottom of handrail extension $\pm 2 \frac{3}{4}$ " beyond last riser, handrail is $\pm 33 \frac{15}{16}$ " above the last nosing.



PK-01.100; 12/17/2014; Stairway; East riser section with handrail $\pm 36 \frac{1}{2}$ " above top of nosing.



PK-01.101; 12/17/2014; Stairway; East riser section with handrail +/- 34 1/2" above the bottom nosing with +/- 31" extension.



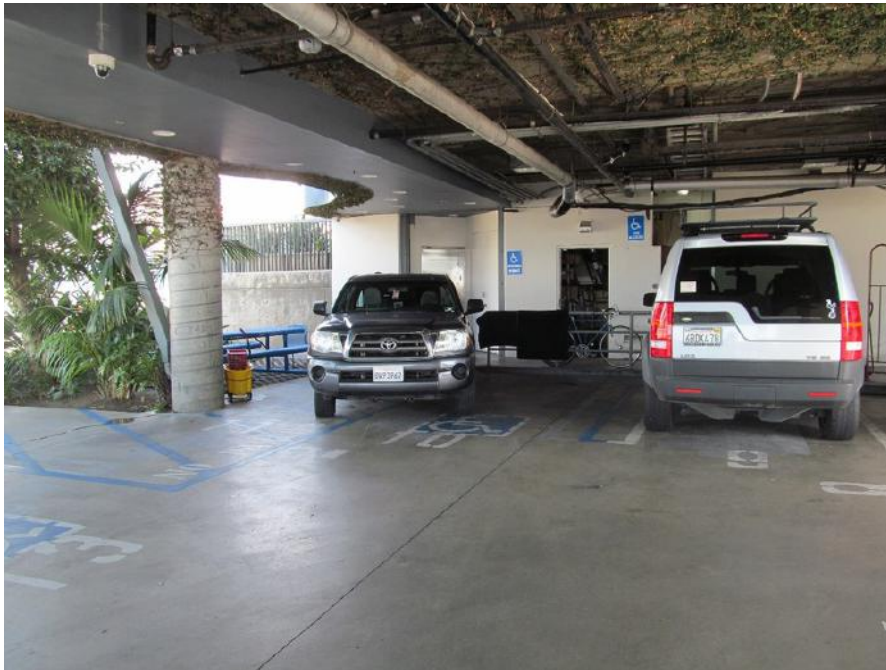
PK-01.104; 12/17/2014; Stairway; East riser section with handrail +/- 34 1/2" above the bottom nosing with +/- 31" extension.



PK-01.107; 12/17/2014; Stairway; West section with riser height along concrete wall/pilaster. See A/5.



PK-01.113; 12/17/2014; Stairway; West section tread measurements. See A/5.



PK-01.123; 12/17/2014; Garage; Parking, 2 handicapped spots.



PK-01.124; 12/17/2014; Garage; Parking, 2 handicapped spots.



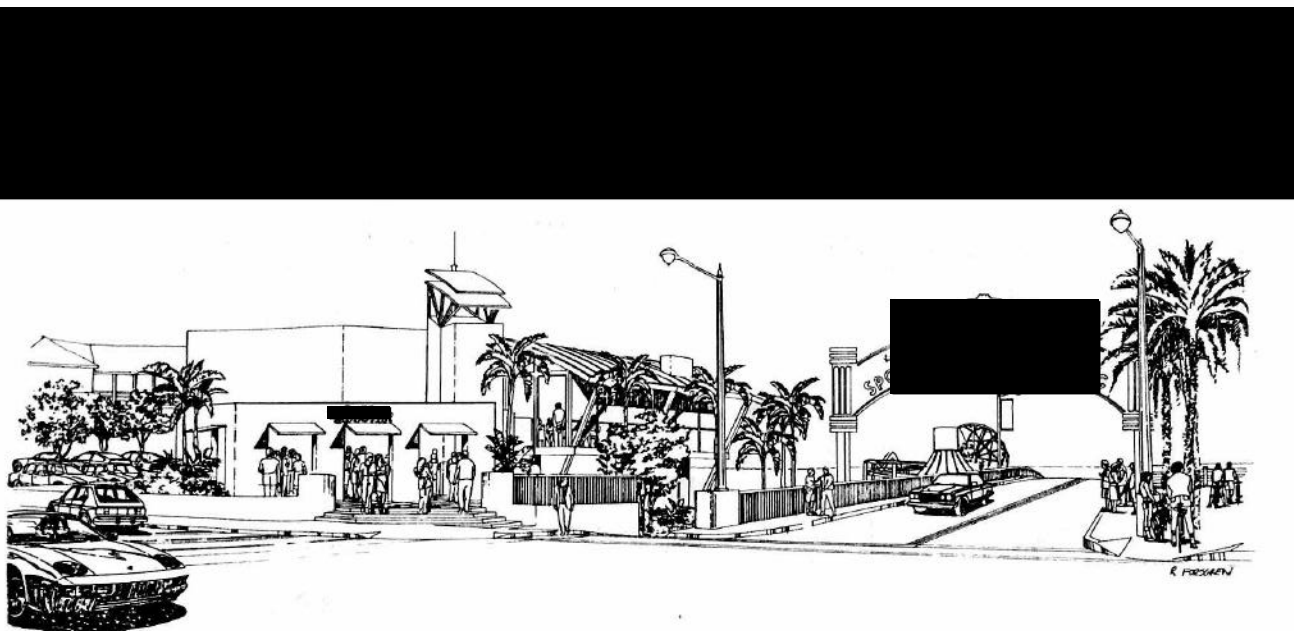
PK-01.146; 12/17/2014; Elevation Right; Overview shots.



PK-01.149; 12/17/2014; Elevation Left; Overview shots.



PK-01.153; 12/17/2014; Elevation Left; Overview shots.



VICINITY MAP



PLANNING AND ZONING DATA

ADDRESS : 1602 Ocean Ave.
Santa Monica, California 90401

LEGAL DESCRIPTION : Lot 1, Lot A and a portion of Lot B of the Moss Tract as per Map 36, pgs. 64, 65

ZONING : RVC Residential-Visitor Commercial District

REQUIRED SETBACKS :
Front 5'-0"
Side 9'-7"
Rear 15'-0"

MAXIMUM HEIGHT : 30'-0" from Average Natural Grade

GRADES :
A'- Grade @ NE Corner = 56.20'
B'- Grade @ SE Corner = 54.33'
C'- Grade @ SW Corner = 49.00'
D'- Grade @ W Corner = 49.00'
E'- Grade @ SW Corner = 44.60'
F'- Grade @ NW Corner = 42.75'
Total = 295.88'
Average Natural Grade = 295.88' / 6 = 49.31'

PROJECT HEIGHT : 49.31' (Ave. Natural Grade) + 30.0' = 79.31'

LOT SIZE : 14,500 sq. ft.

MAXIMUM F.A.R. : .5

PROJECT F.A.R. :
Covered Parking 3,288 sq. ft.
Restaurant 3,980 sq. ft.
Total 7,268 sq. ft.

REQUIRED PARKING :
Support Areas - 1,920 sq. ft. @ 1,300 = 6.40 = 6 spaces
Service/Seating - 2,040 sq. ft. @ 1,75 = 27.20 = 27 spaces
Total = 3,960 sq. ft. = 33.60 = 33 spaces

PARKING PROVIDED : 19 Standard + 17 Compact + 2 Handicap = 36 spaces

ALLEY : 20'-0" @ Pacific Coast Highway

BUILDING CODE DATA

BUILDING AUTHORITY : City of Santa Monica, California

BUILDING CODES : UBC - 1994, UPC, UMC, NEC EDITIONS

CONSTRUCTION TYPE : TYPE I - On-Grade Parking Garage (Fully Sprinklered)
TYPE V W - Restaurant Level (Fully Sprinklered)

NUMBER OF STORIES : 2

BUILDING HEIGHT : 30' A.N.G.

OCCUPANCY GROUPS : A-3 3,960 sq. ft.
S-3 3,288 sq. ft.

NOTES :
1. The "on-grade" parking garage is Type I Construction and therefore Unlimited
2. The entire building is fully sprinklered
3. Per UBC Section 505.3 and Table 5-B

OCCUPANCY	GROUND FLOOR	SECOND FLOOR	TOTAL	ALLOWABLE	PERCENT
A-3	-	3,960 sq. ft.	3,960 sq. ft.	12,000 sq. ft.	33%
S-3	3,288	-	3,288 sq. ft.	unlimited	-
TOTAL	3,288	3,960 sq. ft.	7,248 sq. ft.	unlimited	-

NOTE : Separate review, approval and permits are required for:
Grading
Accessory Buildings
Signs
Trash Enclosures
Block Walls
Retaining Walls

NOTE : Additional permits required:
Health Department
Public Works
Planning Department
Coastal Commission
Fire Department
Industrial Waste and AQMD
OSHA

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FOUNDATION DETAILS		
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DECK DETAILS		
DECK BEAM ELEVATIONS		
ROOF FRAMING PLAN		
ROOF FRAMING DETAILS		
ROOF FRAMING DETAILS		
ROOF FRAMING DETAILS		

PROJECT DIRECTORY

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APR 30 1998

RECEIVED

HOWARD LAKS ASSOCIATES ARCHITECTS
1545 TWELFTH STREET SANTA MONICA, CA 90401

BUILDING CODE DATA

BUILDING AUTHORITY: City of Santa Monica, California

BUILDING CODES: UBC - 1994, UPC, UMC, NEC EDITIONS

CONSTRUCTION TYPE: TYPE I - On-Grade Parking Garage (Fully Sprinklered)
TYPE V N - Resturant Level ((Fully Sprinklered)

NUMBER OF STORIES: 2

BUILDING HEIGHT: 30' A.N.G.

OCCUPANCY GROUPS: A-3 3,960 sq. ft.
S-3 3,288 sq. ft.

NOTES:

1. The 'on-grade' parking garage is Type I Construction and therefore Unlimited
2. The entire building is fully sprinklered
3. Per UBC Section 505.3 and Table 5-B

A-3 = 3,960 sq. ft. x (2) (fully sprinklered) = 7,920 sq. ft.

S-3 = 3,288 sq. ft. x (2) (fully sprinklered) = 6,576 sq. ft.

OCCUPANCY	GROUND FLOOR	SECOND FLOOR	TOTAL	ALLOWABLE	PERCENT
A.3	-	3,960 sq. ft.	3,960 sq. ft.	12,000 sq. ft.	.33%
S.3	3,288	-	3,288 sq. ft.	unlimited	-
TOTAL	3,288	3,960 sq. ft.	7,248 sq. ft.	unlimited	-

NOTE: Separate review, approval and permits are required for:

Grading
Accessory Buildings
Signs
Trash Enclosures
Block Walls
Retaining Walls

NOTE: Additional permits required

Health Department
Public Works
Planning Department
Coastal Commission
Fire Department
Industrial Waste and AQMD
OSHA

✓ A0.1

A0.2

A0.3

C.1

C.2

A1.1

✓ A1.2

✓ A2.1

✓ A2.2

A2.3

✓ A2.4

A2.5

✓ A3.1

✓ A3.2

✓ A3.3

✓ A3.4

✓ A3.5

✓ A3.6

A4.1

A4.2

A4.3

A5.1

A5.2

A5.3

A5.4

A6.1

A6.2

A6.3

A6.4

A6.5

✓ S1.0

✓ S1.1

✓ S2.0

✓ S2.1

✓ S2.2

✓ S2.3

✓ S3.0

✓ S3.1

✓ S3.2

✓ S3.3

✓ S4.0

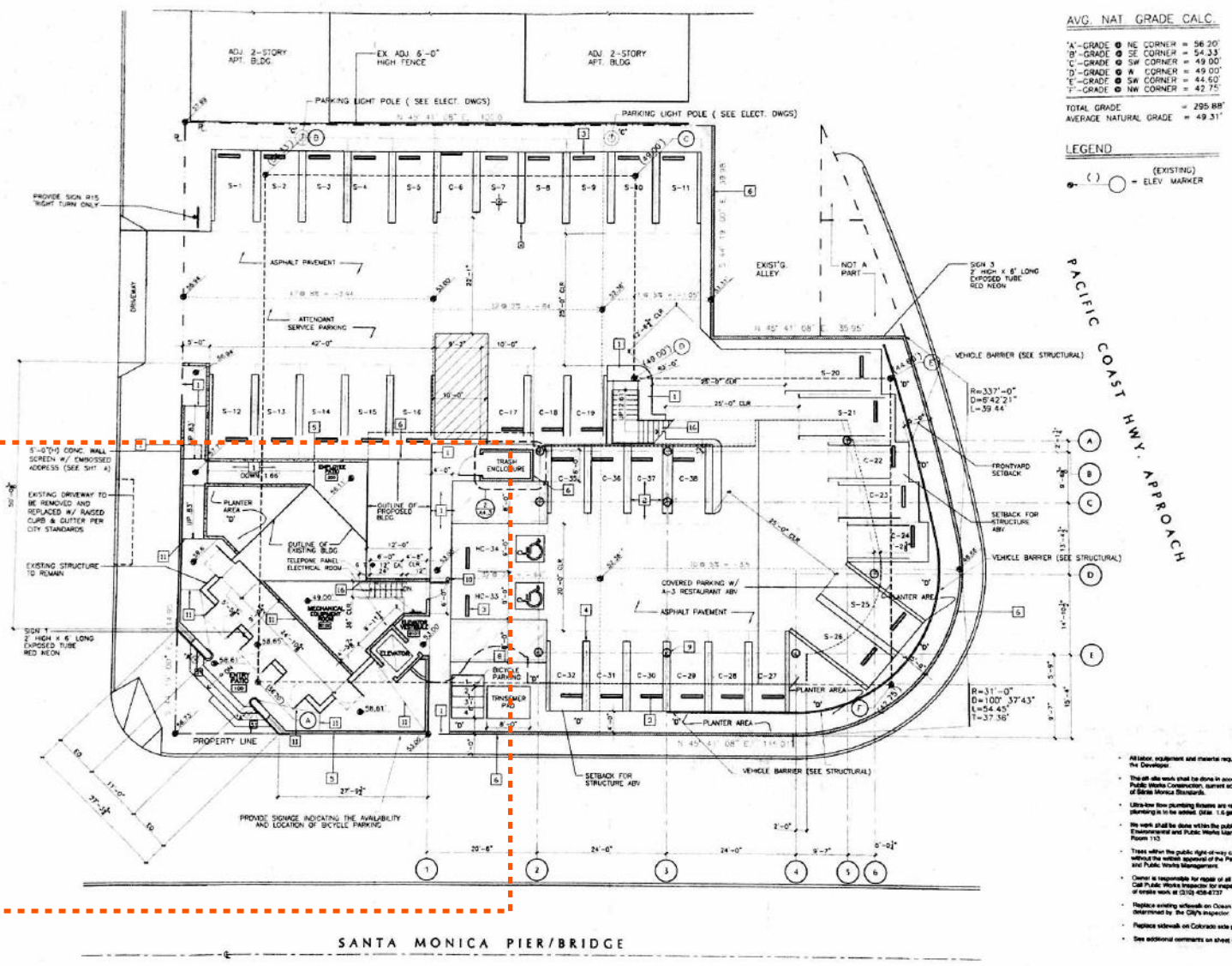
✓ S4.1

✓ S4.2

✓ S4.3

SITE PLAN

OCEAN AVENUE



AVG. NAT. GRADE CALC.

A'-GRADE NE CORNER = 56.20'
B'-GRADE SE CORNER = 54.33'
C'-GRADE SW CORNER = 49.00'
D'-GRADE NW CORNER = 49.00'
E'-GRADE SW CORNER = 44.60'
F'-GRADE NW CORNER = 42.75'

TOTAL GRADE = 295.88'
AVERAGE NATURAL GRADE = 49.31'

LEGEND

() = (EXISTING)
● = ELEV. MARKER

- All other equipment and materials required for off-site improvements are the responsibility of the Developer.
- The site plan shall be shown in accordance with the Standard Specifications/Drawings for Public Works Construction, current edition as amended by the City of Santa Monica, and City of Santa Monica Standards.
- Utility line planning sheets are required on all new development and remodeling where changes in the street, drive, 1/2" gas, water and 1/2" gas, water and low voltage (heads).
- The work shall be done within the public right-of-way without the prior approval of the Environmental and Public Works Management Department, Administrative Services, Room 103.
- Trees within the public right-of-way cannot be removed by the property owner for any reason without the written approval of the Parks and Sports Division or the Director of Environmental and Public Works Management.
- Owner is responsible for repair of all damage to utility improvements caused by construction. Call Public Works Inspector for inspection of utility improvements at substantial completion of utility work at 0150-0160-0170.
- Replace existing sidewalk on Ocean Ave. exact location and area of the work will be determined by the City's Inspector.
- Replace sidewalk on Colorado side per City of Santa Monica Standards.
- See additional comments on sheet C-2.

SANTA MONICA PIER/BRIDGE

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| <p>1 CERAMIC TILE (VERIFY W/ ARCHITECT)</p> <p>2 TELEPHONE</p> <p>3 SHOWER FREE SHOWER STALL</p> <p>4 FIRE EXTINGUISHER CANNET (SEE MANUF. SPECS.)</p> <p>5 CODE REQUIRED ILLUMINATED EXIT SIGN (SEE ELEC. DWGS.)</p> <p>6 ELEVATOR CAB (SEE MANUF. SPECS.)</p> <p>7 BUILT-IN CABINET</p> <p>8 GLAZING VERIFY COLOR WITH ARCHITECT</p> <p>9 OCEAN WALL, BOARD</p> <p>10 OPTICAL CONTROLS, GINT</p> <p>11 ROOF TYPING SEE MANUF. SPECS.</p> <p>12 ELEVATOR CAB (SEE MANUF. SPECS.)</p> <p>13 4" TEMPERED GLASS RAILING</p> | <p>14 TOWEL DISPENSER & WASTE RECEPTACLE-RECESSED</p> <p>15 COMBINATION FEMININE/MASCULINE VENDOR DISPENSER & RECEPTACLE-RECESSED</p> <p>16 COMBINATION FEMININE/MASCULINE VENDOR DISPENSER & RECEPTACLE-PARTITION MOUNTED</p> <p>17 GRAB BAR</p> <p>18 FINISH CONCRETE COUNTERTOP</p> <p>19 FLOOR MOUNTED TOILET</p> <p>20 URINAL</p> <p>21 MIRROR</p> <p>22 TOILET PARTITION</p> <p>23 SOAP DISPENSER</p> <p>24 SINK</p> <p>25 HANDOUT (SEE SCHEDULE)</p> <p>26 GREENBOARD-PARTITION</p> | <p>27 ROOF TRAFFIC PAD</p> <p>28 WOOD STUD (SEE STRUCT. DWGS.)</p> <p>29 WOOD JOISTS (SEE STRUCT. DWGS.)</p> <p>30 WOOD INSULATION (SEE SPECS.)</p> <p>31 BATT INSULATION (SEE SPECS.)</p> <p>32 POURED-IN-PLACE CONCRETE SLAB (SEE STRUCT. DWGS.)</p> <p>33 SURFACE MOUNTED LIGHT FIXTURE (SEE ELEC. DWGS.)</p> <p>34 RECESSED LIGHT FIXTURES (SEE ELEC. DWGS.)</p> <p>35 JANITOR'S SINK</p> <p>36 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED</p> <p>37 TOILET SEAT COVER & TOILET TISSUE DISPENSER-RECESSED</p> <p>38 TOILET SEAT COVER, NAPKIN DISPOSAL & TOILET TISSUE DISPENSER-PARTITION MOUNTED</p> <p>39 TOILET SEAT COVER, NAPKIN DISPOSAL & TOILET TISSUE DISPENSER-RECESSED</p> | <p>40 MONO-POLE ANTENNA</p> <p>41 8x8 STEEL OUTDOOR</p> <p>42 WOOD WINDOW SYSTEMS</p> <p>43 WOOD SINGLE LIFT DOOR SYSTEM</p> <p>44 METAL CLAD PARAPET RAILING</p> <p>45 1/2" CLEAR PART-JOINT GLASS ENCLOSURE</p> <p>46 WOOD CROSS-BRACING WINDOW SUPPORT</p> <p>47 CONCRETE PERIMETER BEAM (SEE STRUCT. DWGS.)</p> <p>48 AREA DETAIL DRAIN</p> <p>49 TRENCH DRAIN</p> <p>50 A.C. EQUIPMENT CURB PROVIDED BY CONTRACTOR & INSTALLED BY GENERAL CONTRACTOR (SEE MECH. DWGS.)</p> <p>51 ROOF ACCESS DOOR</p> <p>52 ROOF ACCESS HATCH</p> <p>53 ROOF ACCESS LADDER</p> | <p>54 PREFABRICATED METAL STAIRS (SHOP DWGS. REQUIRED)</p> <p>55 ALUMINUM CANDORY (VERIFY W/ ARCHITECT)</p> <p>56 SOFFIT 8" x 8"</p> <p>57 PREFABRICATED LOCKERS (SEE SPECS.)</p> <p>58 DRAIN</p> <p>59 ROOF DRAIN AND OVERFLOW</p> <p>60 D.I. SHEET METAL COPING, PAINTED TO MATCH PARAPET WALL</p> <p>61 CONCEALED DUTTER</p> <p>62 CONCEALED DOWNSPOUT</p> <p>63 SPARK ARRESTER</p> <p>64 PREFABRICATED WOOD TRUSS (SEE STRUCT. DWGS.)</p> <p>65 RED WOOD SHINGLES</p> <p>66 3/4" REVEAL</p> <p>67 METAL CLAD ROOF</p> | <p>68 TYPICAL CONCRETE PAVING (SLIP-RESISTANT)</p> <p>69 TYPICAL PARKING STALL</p> <p>70 PRECAST CONCRETE TIME STOP</p> <p>71 TYPICAL DEMARCATION STRIPING</p> <p>72 POURED-IN-PLACE CONC. WALL (SEE STRUCT. DWGS.)</p> <p>73 CMU W/ DOT STUCCO SMOOTH TROWEL (SEE STRUCT. DWGS.)</p> <p>74 CONCRETE CURB</p> <p>75 BICYCLE PARKING RACKS</p> <p>76 POURED-IN-PLACE CONC. COLUMN (SEE STRUCT. DWGS.)</p> <p>77 TIP HANDCAP PARKING STALL SIGN</p> <p>78 CONCRETE SMALL</p> <p>79 SCUPPER</p> <p>80 ROSE BIR (SEE MECH. DWGS.)</p> <p>81 DECORATIVE GUARDRAIL (VERIFY WITH ARCHITECT)</p> <p>82 1 1/2" DIAMETER PIPE HANDRAIL</p> |
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NOT FOR CONSTRUCTION

DATE 10/17/99

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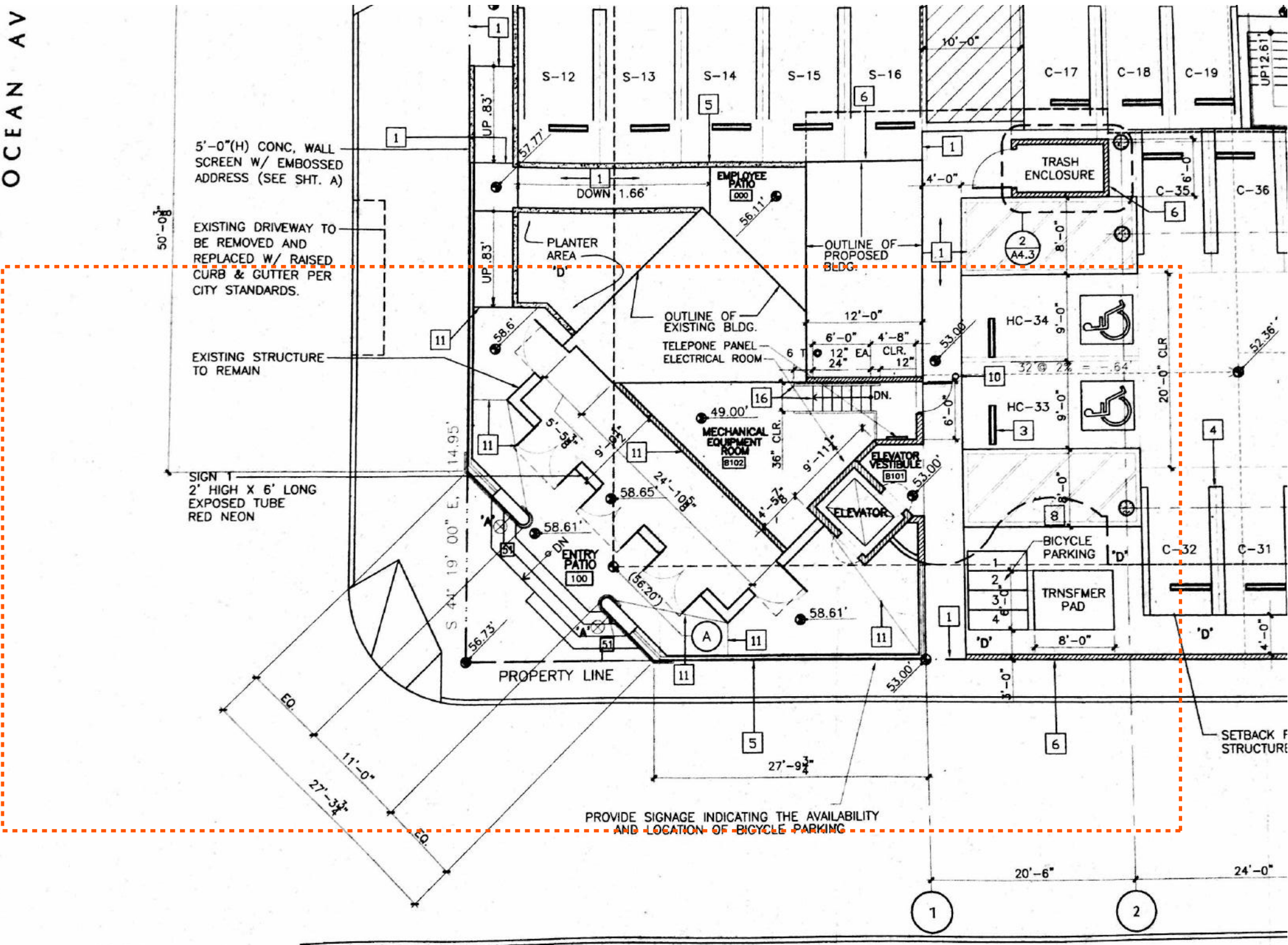
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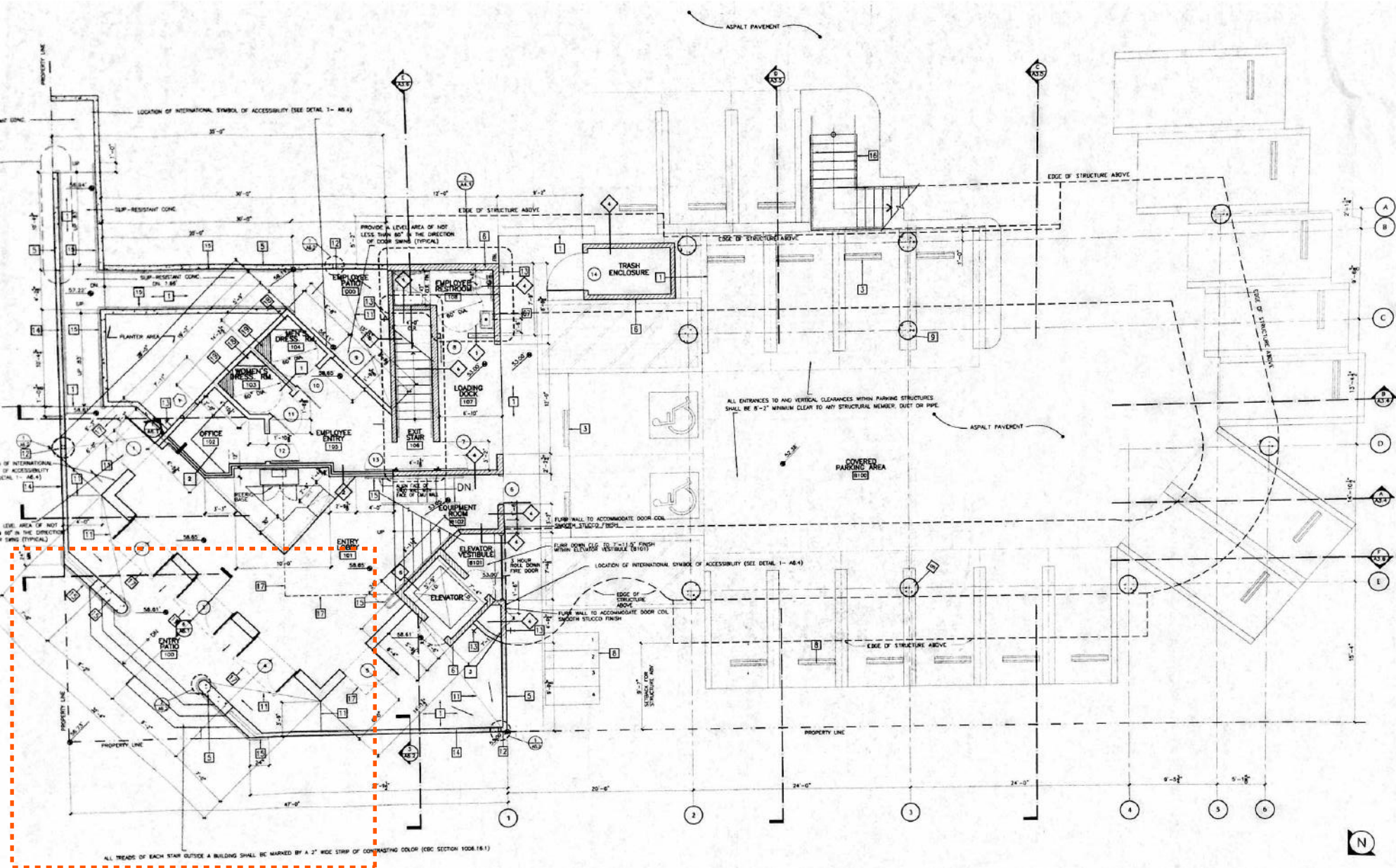
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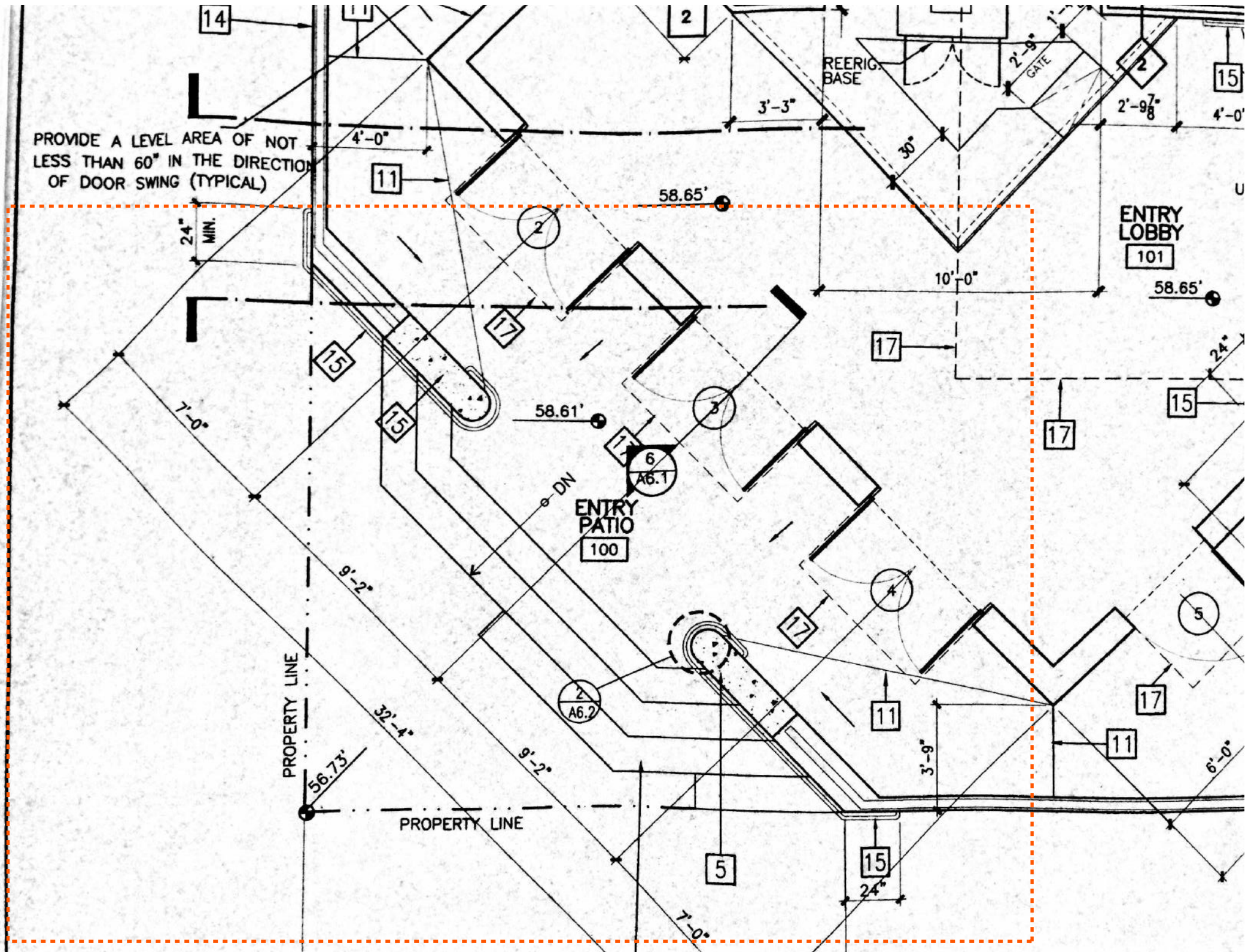




HOWARD LAKS ASSOCIATES ARCHITECTS
 1545 TWELFTH STREET
 SANTA MONICA, CA, 90401
 VOICE: (310) 393-4455
 FAX: (310) 393-2230

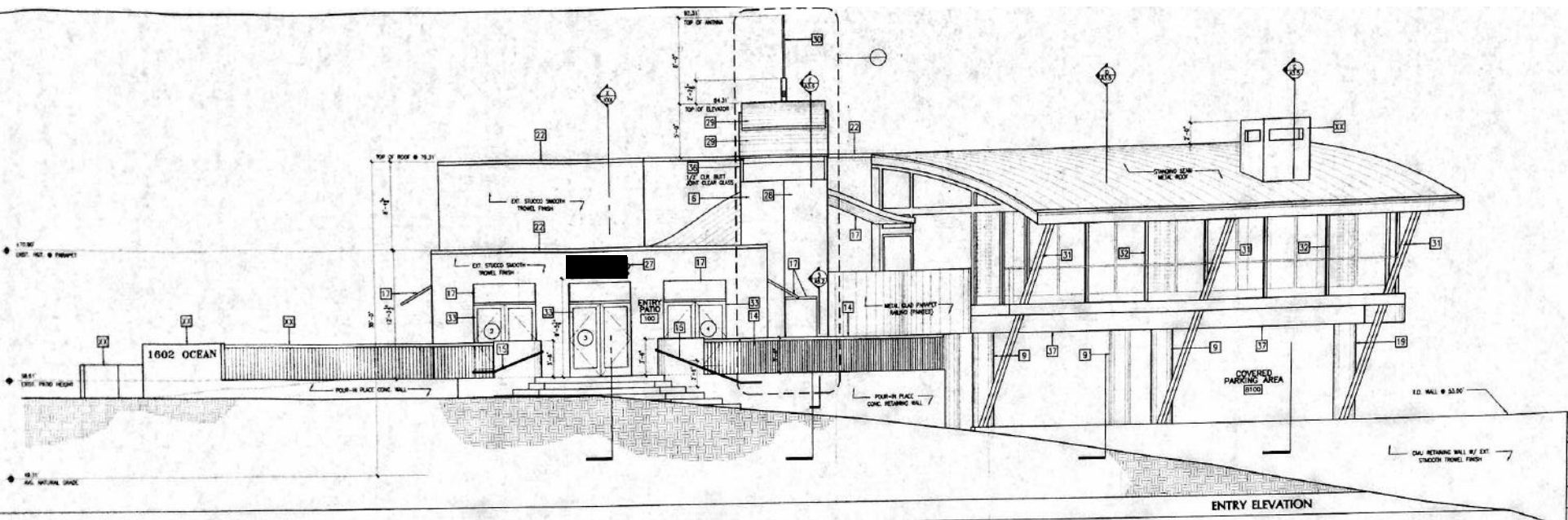
ENTRY LEVEL PLAN

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| <p>1 CERAMIC TILE (VERIFY W/ ARCHITECT)</p> <p>2 TELEPHONE</p> <p>3 BARBER FINE SHOWER STALL</p> <p>4 SHOWER HEAD</p> <p>5 FINE TYPHOGRAPHY CABINET (SEE MANUF. SPECS.)</p> <p>6 CODE REQUIRED ILLUMINATED EXIT SIGN (SEE ELEC. DWGS.)</p> <p>7 ELEVATOR CAB (SEE MANUF. SPECS.)</p> <p>8 BUILD-IN CABINET</p> <p>9 GLAZING VERIFY COLOR WITH ARCHITECT</p> <p>10 CONCRETE WALL BOARD</p> <p>11 SPINALL CONTROL JOINT</p> <p>12 ROOF TOPPING (SEE MANUF. SPECS.)</p> <p>13 ELEVATOR CAB (SEE MANUF. SPECS.)</p> <p>14 1/2" TYPED GLASS RAILING</p> <p>15 TONEL DISPENSER & WHITE RECEPTACLE-NEEDED</p> <p>16 COMBINATION FEMININE/MASCULINE VENDOR DISPENSER & RECEPTACLE-NEEDED</p> <p>17 COMBINATION FEMININE/MASCULINE VENDOR DISPENSER & RECEPTACLE-PARTITION MOUNTED</p> <p>18 DRAIN BAR</p> <p>19 FINISH CONCRETE COUNTERTOP</p> <p>20 FLOOR MOUNTED TOILET</p> <p>21 URINAL</p> <p>22 MIRROR</p> <p>23 TOILET PARTITION</p> <p>24 TOILET DISPENSER</p> <p>25 SIGN</p> <p>26 HANGCOAT (SEE SCHEDULE)</p> <p>27 GREENBOARD-PAINTED</p> <p>28 ROOF TRAFFIC PAD</p> <p>29 WOOD STUD (SEE STRUCT. DWGS.)</p> <p>30 WOOD JOISTS (SEE STRUCT. DWGS.)</p> <p>31 ROOF INSULATION (SEE SPECS.)</p> <p>32 DAMP INSULATION (SEE SPECS.)</p> <p>33 POLYURETHANE-IN-PLACE CONCRETE SLAB (SEE STRUCT. DWGS.)</p> <p>34 SURFACE MOUNTED LIGHT FIXTURE (SEE ELEC. DWGS.)</p> <p>35 RECESSED LIGHT FIXTURES (SEE ELEC. DWGS.)</p> <p>36 JANITOR'S SINK</p> <p>37 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED</p> <p>38 TOILET SEAT COVER & TOILET TISSUE DISPENSER-RECESSED</p> <p>39 TOILET SEAT COVER, NAPKIN DISPOSAL & TOILET TISSUE DISPENSER-PARTITION MOUNTED</p> <p>40 TOILET SEAT COVER, NAPKIN DISPOSAL & TOILET TISSUE DISPENSER-RECESSED</p> <p>41 MONO-POLE ANTENNA</p> <p>42 6"x6" STEEL OUTRIGGER</p> <p>43 WOOD WINDOW SYSTEMS</p> <p>44 WOOD SINGLE LITE DOOR SYSTEM</p> <p>45 METAL CLAD PARAPET RAILING</p> <p>46 1/2" CLEAR BUTT-JOINT GLASS ENCLOSURE</p> <p>47 WOOD CROSS-BRACING MONITOR SUPPORT</p> <p>48 CONCRETE PARAPET BEAM (SEE STRUCT. DWGS.)</p> <p>49 AREA DECK DRAIN</p> <p>50 TRENCH DRAIN</p> <p>51 A.C. EQUIPMENT-CURBS PROVIDED BY CONTRACTOR & INSTALLED BY GENERAL CONTRACTOR (SEE MECH. DWGS.)</p> <p>52 ROOF ACCESS DOOR</p> <p>53 ROOF ACCESS HATCH</p> <p>54 ROOF ACCESS LADDER</p> <p>55 PREFABRICATED METAL STAIRS (SHOP DWGS. REQUIRED)</p> <p>56 ALUMINUM CANOPY (VERIFY W/ ARCHITECT)</p> <p>57 SOFFIT @ 7'-8"</p> <p>58 PREFABRICATED LOCKERS (SEE SPECS.)</p> <p>59 GROUT</p> <p>60 ROOF DRAIN AND OVERFLOW</p> <p>61 6"x6" SHEET METAL CORNER, PAINTED TO MATCH PARAPET WALL</p> <p>62 CONCEALED GUTTER</p> <p>63 CONCEALED DOWNSPOUT</p> <p>64 SPARK ARRESTER</p> <p>65 PREFABRICATED WOOD TRUSS (SEE STRUCT. DWGS.)</p> <p>66 RED MESH SIGNAGE</p> <p>67 6"x6" REBAR</p> <p>68 METAL CLAD ROOF</p> <p>69 TYPICAL CONCRETE PAVING (SLIP-RESISTANT)</p> <p>70 TYPICAL PARKING STALL</p> <p>71 PRECAST CONCRETE TIRE STOP</p> <p>72 TYPICAL DEMARCATION STRIPING</p> <p>73 POURED-IN-PLACE CONCRETE WALL (SEE STRUCT. DWGS.)</p> <p>74 GROUT W/ EXT. STUCCO SMOOTH TROWEL (SEE STRUCT. DWGS.)</p> <p>75 8" CONCRETE CURB</p> <p>76 BICYCLE PARKING RACKS</p> <p>77 POURED-IN-PLACE CONCRETE COLUMN (SEE STRUCT. DWGS.)</p> <p>78 TYP. HANDICAP PARKING STALL SIGN</p> <p>79 CONCRETE SILL</p> <p>80 SCOURER</p> <p>81 ROSE BBS (SEE MECH. DWGS.)</p> <p>82 DECORATIVE GUARDRAIL (VERIFY WITH ARCHITECT)</p> <p>83 1 1/2" DIAMETER PIPE HANDRAIL</p> | <p>NOT FOR CONSTRUCTION</p> <p>APR 30 1998</p> <p>NEW S. SMITH, INC.
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NOTES

1. POST OCCUPANT LOAD SIGNS IN ASSEMBLY ROOMS HAVING AN OCCUPANT LOAD OF 50 OR MORE WHERE FIXED SEATS ARE NOT INSTALLED. UBC SECTOPM 1002.3
2. AUTOMATIC FIRE SPRINKLER SYSTEM INSTALLATION SHALL CONFORM TO UBC STANDARDS 9-1 AND 9-3 UBC SECTION 902



ENTRY ELEVATION

- 1 DURABLE TILE (VERIFY W/ ARCHITECT)
- 2 TELEPHONE
- 3 SHOWER FREE SHOWER STALL
- 4 SHOWER HEAD
- 5 FIRE EXTINGUISHER CABINET (SEE MANUF. SPECS.)
- 6 CODE REQUIRED ILLUMINATED EXIT SIGN (SEE ELEC. DWGS.)
- 7 ELEVATOR CAB (SEE MANUF. SPECS.)
- 8 BUILT-IN CABINET
- 9 GLAZING VERIFY COLOR WITH ARCHITECT
- 10 CHROME WALL BOARDS
- 11 CHROME WALL BOARDS
- 12 CHROME WALL BOARDS
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- 1 TONEL DISPENSER & WASTE RECEPTACLE-RECESSED
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- 34 TONEL DISPENSER & WASTE RECEPTACLE-RECESSED
- 35 TONEL DISPENSER & WASTE RECEPTACLE-RECESSED

- 1 ROOF TRAFFIC PAD
- 2 WOOD STUD (SEE STRUCT. DWGS.)
- 3 WOOD JOIST (SEE STRUCT. DWGS.)
- 4 WOOD INSULATION (SEE SPECS.)
- 5 BUTT INSULATION (SEE SPECS.)
- 6 POURED-IN-PLACE CONCRETE SLAB (SEE STRUCT. DWGS.)
- 7 SURFACE MOUNTED LIGHT FIXTURE (SEE ELEC. DWGS.)
- 8 RECESSED LIGHT FIXTURES (SEE ELEC. DWGS.)
- 9 JANITOR'S SINK
- 10 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED
- 11 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED
- 12 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED
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- 31 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED
- 32 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED
- 33 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED
- 34 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED
- 35 TOILET SEAT COVER & TOILET TISSUE DISPENSER-PARTITION MOUNTED

- 1 MONO-POLE ANTENNA
- 2 6x8 STEEL OUTDOOR
- 3 WOOD WINDOW SYSTEM
- 4 WOOD SHINGLE LITE DOOR SYSTEM
- 5 METAL CLAD PARAPET RAILING
- 6 1/2" CLEAR BUTT-JOINT GLASS ENCLOSURE
- 7 WOOD CROSS-BRACING MONITOR SUPPORT
- 8 CONCRETE PERIMETER BEAM (SEE STRUCT. DWGS.)
- 9 AREA DECK DRAIN
- 10 TYPICAL DRAIN
- 11 A.C. EQUIPMENT-CLUB PROVIDED BY CONTRACTOR & INSTALLED BY GENERAL CONTRACTOR (SEE MECH. DWGS.)
- 12 ROOF ACCESS DOOR
- 13 ROOF ACCESS HATCH
- 14 ROOF ACCESS LADDER

- 1 PREFABRICATED METAL STAIRS (SHOP DWGS. REQUIRED)
- 2 ALUMINUM CANOPY (VERIFY W/ ARCHITECT)
- 3 SLOTTED 1" x 4"
- 4 PREFABRICATED LOOKERS (SEE SPECS.)
- 5 CRICKET
- 6 ROOF DRAIN AND OVERFLOW
- 7 01 SHEET METAL CORING, PAINTED TO MATCH PARAPET WALL
- 8 CONCEALED GUTTER
- 9 CONCEALED DOWNSPOUT
- 10 SPARK ARRESTER
- 11 PREFABRICATED WOOD TRUSS (SEE STRUCT. DWGS.)
- 12 RED MESH DOWNS
- 13 3/4" REVEAL
- 14 METAL CLAD ROOF

- 1 TYPICAL CONCRETE PAVING
- 2 TYPICAL PARKING STALL
- 3 PRECAST CONCRETE TIRE STOP
- 4 TYPICAL DEMARCATION STRIPING
- 5 POURED-IN-PLACE CONC. WALL (SEE STRUCT. DWGS.)
- 6 CMU W/ EXT. STUCCO SMOOTH TROWEL (SEE STRUCT. DWGS.)
- 7 6" CONCRETE CURB
- 8 BICYCLE PARKING RACKS
- 9 POURED-IN-PLACE CONC. COLUMN (SEE STRUCT. DWGS.)
- 10 TWO HANDICAP PARKING STALL SIGN
- 11 CONCRETE SMALL
- 12 SCUPPER
- 13 HOSE BIB (SEE MECH. DWGS.)
- 14 DECORATIVE CLANDRAL (VERIFY WITH ARCHITECT)
- 15 1 1/2" DIAMETER PTFE HANDRAIL

NOT FOR CONSTRUCTION

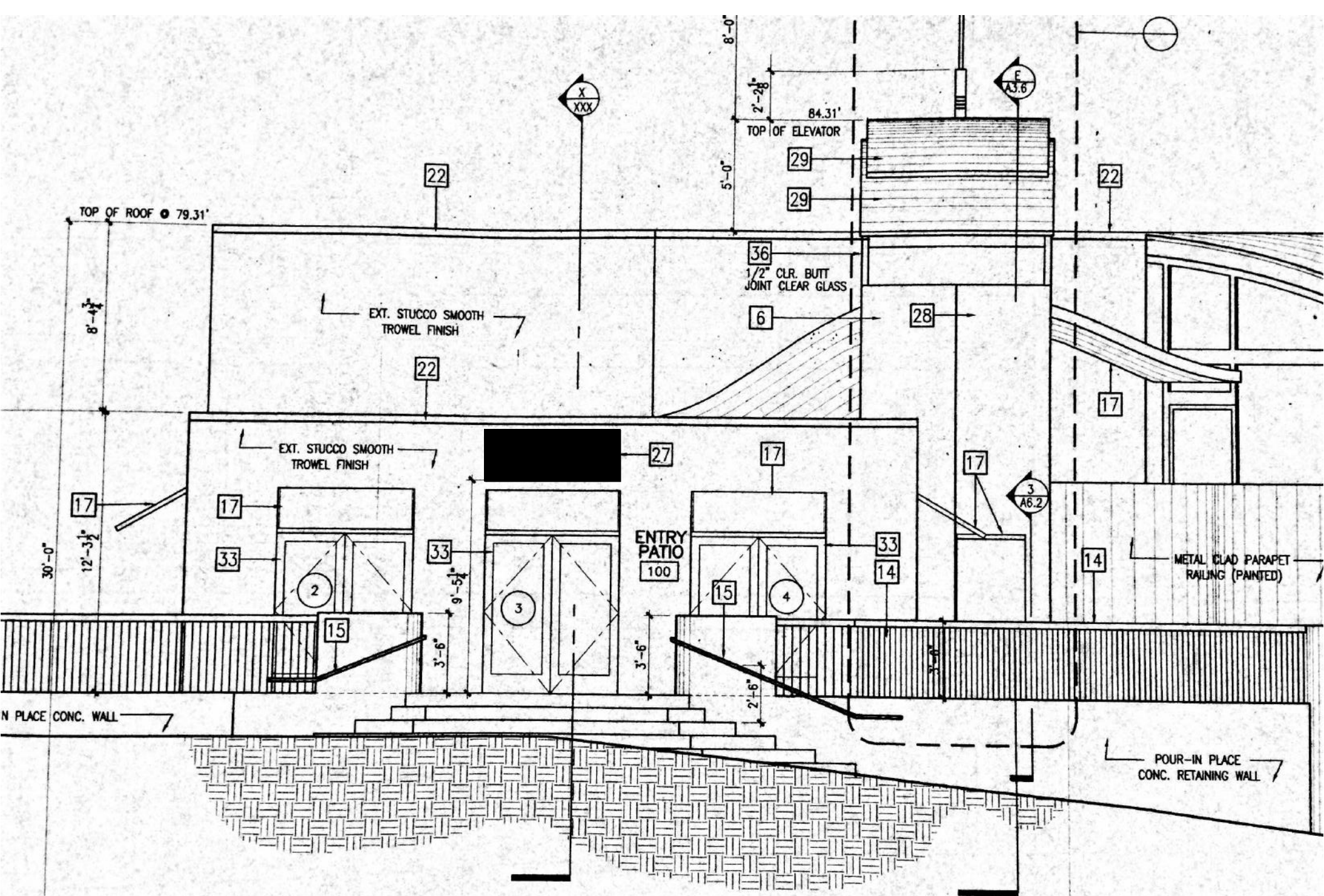
APR 30 1998
 BEN F. SMITH INC.
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HOWARD LAKS ASSOCIATES ARCHITECTS
 1545 TWELFTH STREET
 SANTA MONICA, CA 90401
 VOICE: (310) 393-4455
 FAX: (310) 393-2230

ENTRY ELEVATION

THE LOBSTER, THE TAIL CONTINUES
 1602 Ocean Ave., Santa Monica, CA 90401.

Date: 10/17/97
 Scale: 1/4"=1'-0"
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may be further reduced to one hour where the area of such Group S, Division 3 Occupancy does not exceed 3,000 square feet (279 m²).

3. In the one-hour occupancy separation between Group R, Division 3 and Group U Occupancies, the separation may be limited to the installation of materials approved for one-hour fire-resistive construction on the garage side and a self-closing, tight-fitting solid-wood door 1³/₈ inches (35 mm) in thickness, or a self-closing, tight-fitting door having a fire-protection rating of not less than 20 minutes when tested in accordance with Part II of U.B.C. Standard 7-2, which is a part of this code, is permitted in lieu of a one-hour fire assembly. Fire dampers need not be installed in air ducts passing through the wall, floor or ceiling separating a Group R, Division 3 Occupancy from a Group U Occupancy, provided such ducts within the Group U Occupancy are constructed of steel having a thickness not less than 0.019 inch (0.48 mm) (No. 26 galvanized sheet gage) and have no openings into the Group U Occupancy.

4. Group H, Division 2 and Group H, Division 3 Occupancies need not be separated from Group H, Division 7 Occupancies when such occupancies also comply with the requirements for a Group H, Division 7 Occupancy.

302.5 Heating Equipment Room Occupancy Separation. In Groups A; B; E; F; I; M; R, Division 1; and S Occupancies, rooms containing a boiler, central heating plant or hot-water supply boiler shall be separated from the rest of the building by not less than a one-hour occupancy separation.

EXCEPTIONS: 1. In Groups A, B, E, F, I, M and S Occupancies, boilers, central heating plants or hot-water supply boilers where the largest piece of fuel equipment does not exceed 400,000 Btu per hour (117.2 kW) input.

2. In Group R, Division 1 Occupancies, a separation need not be provided for such rooms with equipment serving only one dwelling unit.

In Group E Occupancies, when the opening for a heater or equipment room is protected by a pair of fire doors, the inactive leaf shall be normally secured in the closed position and shall be openable only by the use of a tool. An astragal shall be provided and the active leaf shall be self-closing.

In Group H Occupancies, rooms containing a boiler, central heating plant or hot-water supply boiler shall be separated from the rest of the building by not less than a two-hour occupancy separation. In Divisions 1 and 2, there shall be no openings in such occupancy separation except for necessary ducts and piping.

For opening in exterior walls of equipment rooms in Groups A, E or I Occupancies, see Section 303.8.

302.6 Water Closet Room Separation. A room in which a water closet is located shall be separated from food preparation or storage rooms by a tight-fitting door.

SECTION 303 — REQUIREMENTS FOR GROUP A OCCUPANCIES

303.1 General.

303.1.1 Group A Occupancies defined. Group A Occupancies include the use of a building or structure, or a portion thereof, for the gathering together of 50 or more persons for purposes such as civic, social or religious functions, recreation, education or instruction, **food or drink consumption**, or awaiting transportation. A room or space used for assembly purposes by less than 50 persons and accessory to another occupancy shall be included as a part of that major occupancy. Assembly occupancies shall include the following:

Division 1. A building or portion of a building having an assembly room with an occupant load of 1,000 or more and a legitimate stage.

Division 2. A building or portion of a building having an assembly room with an occupant load of less than 1,000 and a legitimate stage.

Division 2.1. A building or portion of a building having an assembly room with an occupant load of 300 or more without a legitimate stage, including such buildings used for educational purposes and not classed as Group B or E Occupancies.

Division 3. A building or portion of a building having an assembly room with an occupant load of less than 300 without a legitimate stage, including such buildings used for educational purposes and not classed as Group B or E Occupancies.

be located on the ceiling or wall of the main room or each sleeping room. When sleeping rooms within an efficiency dwelling unit or hotel suite are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. When actuated, the detector shall sound an alarm audible within the sleeping area of the dwelling unit or congregate residence, hotel suite, or sleeping room in which it is located.

310.9.2 Sprinkler and standpipe systems. When required by Section 904.2.1 or other provisions of this code, automatic sprinkler systems and standpipes shall be designed and installed as specified in Chapter 9.

310.10 Fire Alarm Systems. Group R, Division 1 Occupancies shall be provided with an approved manual and automatic fire alarm system in apartment houses three or more stories in height or containing 16 or more dwelling units, in hotels three or more stories in height or containing 20 or more guest rooms and in congregate residences three or more stories in height or having an occupancy load of 20 or more. A fire alarm and communication system shall be provided in Group R, Division 1 Occupancies located in a high-rise building.

EXCEPTIONS: 1. A manual fire alarm system need not be provided in buildings not over two stories in height when all individual dwelling units and contiguous attic and crawl spaces are separated from each other and public or common areas by at least one-hour fire-resistive occupancy separations and each individual dwelling unit or guest room has an exit directly to a public way, exit court or yard.

2. A separate fire alarm system need not be provided in buildings which are protected throughout by an approved supervised fire sprinkler system having a local alarm to notify all occupants.

The alarm signal shall be a distinctive sound which is not used for any other purpose other than the fire alarm. Alarm-signaling devices shall produce a sound that exceeds the prevailing equivalent sound level in the room or space by 15 decibels minimum, or exceeds any maximum sound level with a duration of 30 seconds minimum by 5 decibels minimum, whichever is louder. Sound levels for alarm signals shall be 120 decibels maximum.

For the purposes of this section, area separation walls shall not define separate buildings.

310.11 Heating. Dwelling units, guest rooms and congregate residences shall be provided with heating facilities capable of maintaining a room temperature of 70°F. (21°C.) at a point 3 feet (914 mm) above the floor in all habitable rooms.

310.12 Special Hazards. Chimneys and heating apparatus shall conform to the requirements of Chapter 31 and the Mechanical Code.

The storage, use and handling of flammable and combustible liquids in Division 1 Occupancies shall be in accordance with the Fire Code.

In Division 1 Occupancies, doors leading into rooms in which Class I flammable liquids are stored or used shall be protected by a fire assembly having a one-hour fire-protection rating. Such fire assembly shall be self-closing and shall be posted with a sign on each side of the door in 1-inch (25.4 mm) block letters stating: FIRE DOOR—KEEP CLOSED.

SECTION 311 — REQUIREMENTS FOR GROUP S OCCUPANCIES

311.1 Group S Occupancies Defined. Group S Occupancies shall include the use of a building or structure, or a portion thereof, for storage not classified as a hazardous occupancy. Storage occupancies shall include the following:

Division 1. Moderate hazard storage occupancies shall include buildings or portions of buildings used for storage of combustible materials that are not classified as a Group S, Division 2 or as a Group H Occupancy.

Division 2. Low-hazard storage occupancies shall include buildings, structures, or portions thereof, used for storage of noncombustible materials, such as products on wood pallets or in paper cartons with or without single-thickness divisions, or in paper wrappings and shall include ice plants, power plants and pumping plants. Such products may have a negligible amount of plastic

trim such as knobs, handles or film wrapping. Low-hazard storage occupancies shall include, but are not limited to, storage of the following items:

1. Beer or wine (in metal, glass or ceramic containers).
2. Cement in bags.
3. Cold storage and creameries.
4. Dairy products in nonwax-coated paper containers.
5. Dry-cell batteries.
6. Dryers.
7. Dry pesticides in a building not classed as a Group H Occupancy.
8. Electrical coils.
9. Electrical insulators.
10. Electrical motors.
11. Empty cans.
12. Foods in noncombustible containers.
13. Fresh fruits in nonplastic trays or containers.
14. Frozen foods.
15. Glass bottles (empty or filled with nonflammable liquids).
16. Gypsum board.
17. Inert pigments.
18. Meats.
19. Metal cabinets.
20. Metal furniture.
21. Oil-filled distribution transformers.
22. Stoves.
23. Washers.

Division 3. Division 3 Occupancies shall include repair garages where work is limited to exchange of parts and maintenance requiring no open flame or welding, motor vehicle fuel-dispensing stations, and parking garages not classed as Group S, Division 4 open parking garages or Group U private garages.

For the use of flammable and combustible liquids, see Section 307 and the Fire Code.

Division 4. Open parking garages per Section 311.9.

Division 5. Aircraft hangars where work is limited to exchange of parts and maintenance requiring no open flame or welding and helistops.

For occupancy separations, see Table 3-B.

311.2 Construction, Height and Allowable Area.

311.2.1 General. Buildings or parts of buildings classed in Group S Occupancy because of the use or character of the occupancy shall be limited to the types of construction set forth in Table 5-B and shall not exceed, in area or height, the limits specified in Sections 504, 505 and 506.

311.2.2 Special provisions.

311.2.2.1 Group S, Division 3 with Group A; Division 3; Group B; Group M or R, Division 1 Occupancy above. Other provisions of this code notwithstanding, a basement or first story of a

312.6 Agricultural Buildings. Where applicable (see Section 101.3) for agricultural buildings, see Appendix Chapter 3.

TABLE 3-A—DESCRIPTION OF OCCUPANCIES BY GROUP AND DIVISION¹

GROUP AND DIVISION	SECTION	DESCRIPTION OF OCCUPANCY
A-1	303.1.1	A building or portion of a building having an assembly room with an occupant load of 1,000 or more and a legitimate stage.
A-2		A building or portion of a building having an assembly room with an occupant load of less than 1,000 and a legitimate stage.
A-2.1		A building or portion of a building having an assembly room with an occupant load of 300 or more without a legitimate stage, including such buildings used for educational purposes and not classed as a Group E or Group B Occupancy.
A-3		Any building or portion of a building having an assembly room with an occupant load of less than 300 without a legitimate stage, including such buildings used for educational purposes and not classed as a Group E or Group B Occupancy.
A-4		Stadiums, reviewing stands and amusement park structures not included within other Group A Occupancies.
B	304.1	A building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts; eating and drinking establishments with an occupant load of less than 50.
E-1	305.1	Any building used for educational purposes through the 12th grade by 50 or more persons for more than 12 hours per week or four hours in any one day.
E-2		Any building used for educational purposes through the 12th grade by less than 50 persons for more than 12 hours per week or four hours in any one day.
E-3		Any building or portion thereof used for day-care purposes for more than six persons.
F-1	306.1	Moderate-hazard factory and industrial occupancies include factory and industrial uses not classified as Group F, Division 2 Occupancies.
F-2		Low-hazard factory and industrial occupancies include facilities producing noncombustible or nonexplosive materials which during finishing, packing or processing do not involve a significant fire hazard.
H-1	307.1	Occupancies with a quantity of material in the building in excess of those listed in Table 3-D which present a high explosion hazard as listed in Section 307.1.1.
H-2		Occupancies with a quantity of material in the building in excess of those listed in Table 3-D which present a moderate explosion hazard or a hazard from accelerated burning as listed in Section 307.1.1.
H-3		Occupancies with a quantity of material in the building in excess of those listed in Table 3-D which present a high fire or physical hazard as listed in Section 307.1.1.
H-4		Repair garages not classified as Group S, Division 3 Occupancies.
H-5		Aircraft repair hangars not classified as Group S, Division 5 Occupancies and heliports.
H-6	307.1 and 307.11	Semiconductor fabrication facilities and comparable research and development areas when the facilities in which hazardous production materials are used, and the aggregate quantity of material is in excess of those listed in Table 3-D or 3-E.
H-7	307.1	Occupancies having quantities of materials in excess of those listed in Table 3-E that are health hazards as listed in Section 307.1.1.

TABLE 3-A—DESCRIPTION OF OCCUPANCIES BY GROUP AND DIVISION¹—(Continued)

GROUP AND DIVISION	SECTION	DESCRIPTION OF OCCUPANCY
I-1.1	308.1	Nurseries for the full-time care of children under the age of six (each accommodating more than five children), hospitals, sanitariums, nursing homes with nonambulatory patients and similar buildings (each accommodating more than five patients).
I-1.2		Health-care centers for ambulatory patients receiving outpatient medical care which may render the patient incapable of unassisted self-preservation (each tenant space accommodating more than five such patients).
I-2		Nursing homes for ambulatory patients, homes for children six years of age or over (each accommodating more than five persons).
I-3		Mental hospitals, mental sanitariums, jails, prisons, reformatories and buildings where personal liberties of inmates are similarly restrained.
M	309.1	A building or structure, or a portion thereof, for the display and sale of merchandise, and involving stocks of goods, wares or merchandise, incidental to such purposes and accessible to the public.
R-1	310.1	Hotels and apartment houses, congregate residences (each accommodating more than 10 persons).
R-3		Dwellings, lodging houses, congregate residences (each accommodating 10 or fewer persons).
S-1	311.1	Moderate hazard storage occupancies including buildings or portions of buildings used for storage of combustible materials not classified as Group S, Division 2 or Group H Occupancies.
S-2		Low-hazard storage occupancies including buildings or portions of buildings used for storage of noncombustible materials.
S-3		Repair garages where work is limited to exchange of parts and maintenance not requiring open flame or welding, and parking garages not classified as Group S, Division 4 Occupancies.
S-4		Open parking garages.
S-5		Aircraft hangars and helistops.
U-1	312.1	Private garages, carports, sheds and agricultural buildings.
U-2		Fences over 6 feet (1829 mm) high, tanks and towers.

¹For detailed descriptions, see the occupancy definitions in the noted sections.

The occupant load for buildings or areas containing two or more occupancies shall be determined by adding the occupant loads of the various use areas as computed in accordance with the applicable provisions of this section.

1002.1.3 Fixed seating. For areas having fixed seats and aisles, the occupant load shall be determined by the number of fixed seats installed therein. The required width of aisles serving fixed seats shall not be used for any other purpose.

For areas having fixed benches or pews, the occupant load shall not be less than the number of seats based on one person for each 18 inches (457 mm) of length of pew or bench.

Where booths are used in dining areas, the occupant load shall be based on one person for each 24 inches (610 mm) of booth length or major portion thereof.

1002.1.4 Reviewing stands, grandstands and bleachers. The occupant load for reviewing stands, grandstands and bleachers shall be calculated in accordance with this section and the specific requirements contained in Section 1021.

1002.2 Maximum Occupant Load.

1002.2.1 Assembly occupancies. The maximum occupant load for assembly occupancies shall not exceed the occupant load determined in accordance with Section 1002.1.

EXCEPTION: When approved by the building official, the occupant load for an assembly occupancy may be increased provided the maximum occupant load served does not exceed the capacity of the exit system for such increased number of persons. The building official may require an aisle, seating or fixed equipment diagram to substantiate such an increase, and may require that such diagram be posted.

1002.2.2 Other occupancies. For other than assembly occupancies, an occupant load greater than that determined in accordance with Section 1002.1 is permitted; however, the exit system shall comply with the provisions of this chapter for such increased number of persons.

1002.3 Posting of Room Capacity. Any room having an occupant load of 50 or more where fixed seats are not installed, and which is used for assembly purpose, shall have the capacity of the room posted in a conspicuous place on an approved sign near the main exit from the room. Such signs shall be maintained legible by the owner or the owner's authorized agent and shall indicate the number of occupants permitted for each room use.

1002.4 Revised Occupant Load. After a building is occupied, any change in use or increase in occupant load shall comply with this chapter. See Section 3405.

SECTION 1003 — EXITS REQUIRED

1003.1 Number of Exits. Every building or usable portion thereof shall have at least one exit, not less than two exits where required by Table 10-A and additional exits as required by this section.

For purposes of this section, basements and occupied roofs shall be provided with exits as required for stories.

EXCEPTION: Occupied roofs on Group R, Division 3 Occupancies may have one exit if such occupied areas are less than 500 square feet (46.45 m²) and are located no higher than immediately above the second story.

Floors complying with the provisions for mezzanines as specified in Section 507 shall be provided with exits as specified therein.

Occupants on stories above the first and in basements shall have access to not less than two separate exits from the story or basement.

EXCEPTIONS: 1. Second stories having an occupant load less than 10 may be provided with only one exit.

2. Two or more dwelling units on the second story or in a basement may have access to only one common exit when the total occupant load served by that exit does not exceed 10.

3. Except as provided in Table 10-A, only one exit need be provided from the second floor or a basement within an individual dwelling unit or a Group R, Division 3 congregate residence.
4. When the third floor within an individual dwelling unit or a Group R, Division 3 congregate residence does not exceed 500 square feet (46.45 m²), only one exit need be provided from that floor.
5. Floors and basements used exclusively for service of the building may have one exit. For the purposes of this exception, storage rooms, laundry rooms, maintenance offices and similar uses shall not be considered as providing service to the building.
6. Storage rooms, laundry rooms and maintenance offices not exceeding 300 square feet (27.87 m²) in floor area may be provided with only one exit.
7. Elevator lobbies may have one exit provided the use of such exit does not require keys, tools, special knowledge or effort.

For special requirements see the following sections: Group A, Section 1016; Group E, Section 1017; Group H, Section 1018; Group I, Section 1019; Rooms Containing Fuel-fired Equipment and Cellulose Nitrate Handling Rooms, Section 1020; Reviewing Stands, Grandstands and Bleachers, Section 1021; Laboratories, Sections 304.2.2 and 305.2.4; and Open Parking Garages, Section 311.9.

Every story or portion thereof having an occupant load of 501 to 1,000 shall not have less than three exits.

Every story or portion thereof having an occupant load of 1,001 or more shall not have less than four exits.

The number of exits required from any story of a building shall be determined by using the occupant load of that story.

The maximum number of exits required for any story shall be maintained until egress is provided from the structure. (See Section 1010.)

1003.2 Width. The total width of exits in inches (mm) shall not be less than the total occupant load served by an exit multiplied by 0.3 (7.62) for stairways and 0.2 (5.08) for other exits nor less than specified elsewhere in this code. Such widths of exits shall be divided approximately equally among the separate exits.

The maximum exit width required from any story of a building shall be maintained.

1003.3 Arrangement of Exits. If only two exits are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between exits.

EXCEPTION: The separation between exit doors in the exit enclosures which are interconnected by a one-hour fire-resistive corridor conforming to the requirements of Section 1005 may be measured along a direct line of travel within the exit corridor. Enclosure walls shall not be less than 30 feet (9144 mm) apart at any point in a direct line of measurement.

Where three or more exits are required, at least two exits shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between the exits, and the additional exits shall be arranged a reasonable distance apart so that if one becomes blocked the others will be available.

1003.4 Travel Distance. The maximum travel distance shall not exceed 150 feet (45 720 mm), unless otherwise allowed by this section. The maximum travel distance may be increased in accordance with the following:

1. In a building equipped with an automatic sprinkler system throughout, the maximum travel distance may be 200 feet (60 960 mm).
2. The maximum travel distance of 150 feet (45 720 mm) and the maximum travel distance of 200 feet (60 960 mm) allowed by Item 1 may be increased up to an additional 100 feet (30 480 mm) when this increase in travel distance occurs in the last portion of the travel distance and is entirely within a one-hour fire-resistive corridor complying with Section 1005.

accordance with U.B.C. Standard 7-2. Said doors shall not have louvers. The door and frame shall bear an approved label or other identification showing the rating thereof, the name of the manufacturer and the identification of the service conducting the inspection of materials and workmanship at the factory during fabrication and assembly. Doors shall be maintained self-closing or shall be automatic closing by actuation of a smoke detector in accordance with Section 713.2. Smoke- and draft-control door assemblies shall be provided with a gasket so installed as to provide a seal where the door meets the stop on both sides and across the top.

EXCEPTIONS: 1. Viewports may be installed if they require a hole not larger than 1 inch in diameter through the door, have at least a 1/4-inch-thick (6.4 mm) glass disc and the holder is of metal which will not melt out when subject to temperatures of 1,700°F. (927°C.).

2. Protection of openings in the interior walls of exterior exit balconies is not required when it is possible to exit in two directions.

1005.8.2 Openings other than doors. Where corridor walls are required to be of one-hour fire-resistive construction by Section 1005.7, interior openings for other than doors or ducts shall be protected by fixed glazing listed and labeled for a fire-protection rating of at least three-fourths hour in accordance with Section 713.9. The total area of all openings, other than doors, in any portion of an interior corridor shall not exceed 25 percent of the area of the corridor wall of the room which it is separating from the corridor. For duct openings, see Sections 713.10 and 713.11.

EXCEPTION: Protection of openings in the interior walls of exterior exit balconies is not required when it is possible to exit in two directions.

1005.9 Location on Property. Exterior exit balconies shall not be located in areas where openings are not permitted or where openings are required to be protected due to location on the property.

1005.10 Elevators. Elevators opening into a corridor serving a Group R, Division 1 or Group I Occupancy having an occupant load of 10 or more, or a corridor serving other occupancies having an occupant load of 30 or more shall be provided with an elevator lobby at each floor containing such a corridor. The lobby shall completely separate the elevators from the corridor by construction conforming to Section 1005.7 and all openings into the lobby wall contiguous with the corridor shall be protected as required by Section 1005.8.

EXCEPTIONS: 1. In office buildings classed as Group B Occupancies, separations need not be provided from a street floor lobby, provided the entire street floor is protected with an automatic sprinkler system.

2. Elevators not required to meet the shaft enclosure requirements of Section 711.

3. When additional doors are provided in accordance with Section 3007.

Elevator lobbies shall comply with Section 3002.

In fully sprinklered office buildings, corridors may lead through enclosed elevator lobbies if all areas of the building have access to at least one required exit without passing through the elevator lobby.

SECTION 1006 — STAIRWAYS

1006.1 General. Every stairway having two or more risers serving any building or portion thereof shall conform to the requirements of this section. When aisles in assembly rooms have steps, they shall conform with the provisions in Section 1014.

EXCEPTION: Stairs or ladders used only to attend equipment or window wells are exempt from the requirements of this section.

1006.2 Width. The minimum stairway width shall be determined as specified in Section 1003.2, but shall not be less than 44 inches (1118 mm) except as specified herein and in Chapter 11. Stairways serving an occupant load of 49 or less shall not be less than 36 inches (914 mm) in width.

Handrails may project into the required width a distance of 3 1/2 inches (89 mm) from each side of a stairway. Stringers and other projections such as trim and similar decorative features may project into the required width 1 1/2 inches (38 mm) on each side.

1006.3 Rise and Run. The rise of steps shall not be less than 4 inches (102 mm) or greater than 7 inches (178 mm). Except as permitted in Sections 1006.4 and 1006.6, the run shall not be less than 11 inches (279 mm) as measured horizontally between the vertical planes of the furthestmost projection of adjacent treads. Except as permitted in Sections 1006.4, 1006.5 and 1006.6, the largest tread run within any flight of stairs shall not exceed the smallest by more than $\frac{3}{8}$ inch (9.5 mm). The greatest riser height within any flight of stairs shall not exceed the smallest by more than $\frac{3}{8}$ inch (9.5 mm).

EXCEPTIONS: 1. Private steps and stairways serving an occupant load of less than 10 and stairways to unoccupied roofs may be constructed with an 8-inch-maximum (203 mm) rise and a 9-inch-minimum (229 mm) run.

2. Where the bottom or top riser adjoins a sloping public way, walk or driveway having an established grade and serving as a landing, the bottom or top riser may be reduced along the slope to less than 4 inches (102 mm) in height with the variation in height of the bottom or top riser not to exceed 3 inches (76 mm) in every 3 feet (914 mm) of stairway width.

1006.4 Winding Stairways. In Group R, Division 3 Occupancies and in private stairways in Group R, Division 1 Occupancies, winders may be used if the required width of run is provided at a point not more than 12 inches (305 mm) from the side of the stairway where the treads are narrower, but in no case shall any width of run be less than 6 inches (152 mm) at any point.

1006.5 Circular Stairways. Circular stairways may be used as an exit, provided the minimum width of run is not less than 10 inches (254 mm) and the smaller radius is not less than twice the width of the stairway. The largest tread width or riser height within any flight of stairs shall not exceed the smallest by more than $\frac{3}{8}$ inch (9.5 mm).

1006.6 Spiral Stairways. In Group R, Division 3 Occupancies and in private stairways within individual units of Group R, Division 1 Occupancies, spiral stairways may be installed. Such stairways may be used for required exits when the area served is limited to 400 square feet (37.16 m²).

The tread must provide a clear walking area measuring at least 26 inches (660 mm) from the outer edge of the supporting column to the inner edge of the handrail. A run of at least $7\frac{1}{2}$ inches (191 mm) is to be provided at a point 12 inches (305 mm) from where the tread is the narrowest. The rise must be sufficient to provide 6-foot 6-inch (1981 mm) headroom. The rise shall not exceed $9\frac{1}{2}$ inches (241 mm).

1006.7 Landings. Every landing shall have a dimension measured in the direction of travel not less than the width of the stairway. Such dimension need not exceed 44 inches (1118 mm) when the stair has a straight run. There shall not be more than 12 feet (3658 mm) vertically between landings. For landings with adjoining doors, see Section 1004.10.

EXCEPTION: Stairs serving an unoccupied roof are exempt from these provisions.

1006.8 Basement Stairways. When a basement stairway and a stairway to an upper story terminate in the same exit enclosure, an approved barrier shall be provided to prevent persons from continuing on into the basement. Directional exit signs shall be provided as specified in Section 1013.

1006.9 Handrails. Stairways shall have handrails on each side, and every stairway required to be more than 88 inches (2235 mm) in width shall be provided with not less than one intermediate handrail for each 88 inches (2235 mm) of required width. Intermediate handrails shall be spaced approximately equally across with the entire width of the stairway.

EXCEPTIONS: 1. Stairways less than 44 inches (1118 mm) in width or stairways serving one individual dwelling unit in Group R, Division 1 or 3 Occupancies or a Group R, Division 3 congregate residence may have one handrail.

2. Private stairways 30 inches (762 mm) or less in height may have handrails on one side only.

3. Stairways having less than four risers and serving one individual dwelling unit in Group R, Division 1 or 3, or a Group R, Division 3 congregate residence or serving Group U Occupancies need not have handrails.

The top of handrails and handrail extensions shall be placed not less than 34 inches (864 mm) or more than 38 inches (965 mm) above the nosing of treads and landings. Handrails shall be continu-

1006.3 Rise and Run. The rise of steps shall not be less than 4 inches (102 mm) or greater than 7 inches (178 mm). Except as permitted in Sections 1006.4 and 1006.6, the run shall not be less than 11 inches (279 mm) as measured horizontally between the vertical planes of the furthestmost projection of adjacent treads. Except as permitted in Sections 1006.4, 1006.5 and 1006.6, the largest tread run within any flight of stairs shall not exceed the smallest by more than $\frac{3}{8}$ inch (9.5 mm). The greatest riser height within any flight of stairs shall not exceed the smallest by more than $\frac{3}{8}$ inch (9.5 mm).

EXCEPTIONS: 1. Private steps and stairways serving an occupant load of less than 10 and stairways to unoccupied roofs may be constructed with an 8-inch-maximum (203 mm) rise and a 9-inch-minimum (229 mm) run.

2. Where the bottom or top riser adjoins a sloping public way, walk or driveway having an established grade and serving as a landing, the bottom or top riser may be reduced along the slope to less than 4 inches (102 mm) in height with the variation in height of the bottom or top riser not to exceed 3 inches (76 mm) in every 3 feet (914 mm) of stairway width.

1006.4 Winding Stairways. In Group R, Division 3 Occupancies and in private stairways in Group R, Division 1 Occupancies, winders may be used if the required width of run is provided at a point not more than 12 inches (305 mm) from the side of the stairway where the treads are narrower, but in no case shall any width of run be less than 6 inches (152 mm) at any point.

1006.5 Circular Stairways. Circular stairways may be used as an exit, provided the minimum width of run is not less than 10 inches (254 mm) and the smaller radius is not less than twice the width of the stairway. The largest tread width or riser height within any flight of stairs shall not exceed the smallest by more than $\frac{3}{8}$ inch (9.5 mm).

1006.6 Spiral Stairways. In Group R, Division 3 Occupancies and in private stairways within individual units of Group R, Division 1 Occupancies, spiral stairways may be installed. Such stairways may be used for required exits when the area served is limited to 400 square feet (37.16 m²).

The tread must provide a clear walking area measuring at least 26 inches (660 mm) from the outer edge of the supporting column to the inner edge of the handrail. A run of at least $7\frac{1}{2}$ inches (191 mm) is to be provided at a point 12 inches (305 mm) from where the tread is the narrowest. The rise must be sufficient to provide 6-foot 6-inch (1981 mm) headroom. The rise shall not exceed $9\frac{1}{2}$ inches (241 mm).

1006.7 Landings. Every landing shall have a dimension measured in the direction of travel not less than the width of the stairway. Such dimension need not exceed 44 inches (1118 mm) when the stair has a straight run. There shall not be more than 12 feet (3658 mm) vertically between landings. For landings with adjoining doors, see Section 1004.10.

EXCEPTION: Stairs serving an unoccupied roof are exempt from these provisions.

1006.8 Basement Stairways. When a basement stairway and a stairway to an upper story terminate in the same exit enclosure, an approved barrier shall be provided to prevent persons from continuing on into the basement. Directional exit signs shall be provided as specified in Section 1013.

1006.9 Handrails. Stairways shall have handrails on each side, and every stairway required to be more than 88 inches (2235 mm) in width shall be provided with not less than one intermediate handrail for each 88 inches (2235 mm) of required width. Intermediate handrails shall be spaced approximately equally across with the entire width of the stairway.

EXCEPTIONS: 1. Stairways less than 44 inches (1118 mm) in width or stairways serving one individual dwelling unit in Group R, Division 1 or 3 Occupancies or a Group R, Division 3 congregate residence may have one handrail.

2. Private stairways 30 inches (762 mm) or less in height may have handrails on one side only.

3. Stairways having less than four risers and serving one individual dwelling unit in Group R, Division 1 or 3, or a Group R, Division 3 congregate residence or serving Group U Occupancies need not have handrails.

The top of handrails and handrail extensions shall be placed not less than 34 inches (864 mm) or more than 38 inches (965 mm) above the nosing of treads and landings. Handrails shall be continu-

ous the full length of the stairs and, except for private stairways, at least one handrail shall extend in the direction of the stair run not less than 12 inches (305 mm) beyond the top riser nor less than 12 inches (305 mm) beyond the bottom riser. Ends shall be returned or shall terminate in newel posts or safety terminals.

The handgrip portion of handrails shall not be less than $1\frac{1}{4}$ (32 mm) inches nor more than 2 inches (51 mm) in cross-sectional dimension or the shape shall provide an equivalent gripping surface. The handgrip portion of handrails shall have a smooth surface with no sharp corners.

Handrails projecting from a wall shall have a space of not less than $1\frac{1}{2}$ inches (38 mm) between the wall and the handrail.

1006.10 Guardrails. Stairways open on one or both sides shall have guardrails as required by Section 509.

1006.11 Protection of Exterior Wall Openings. Except in Group R, Division 3 Occupancies, all openings in the exterior wall below and within 10 feet (3048 mm), measured horizontally, of an exterior exit stairway or unprotected openings in an interior exit stairway serving a building over two stories in height or a floor level having such openings in two or more floors below shall be protected by fixed, self-closing, or automatic-closing fire assemblies having a three-fourths-hour fire-protection rating.

EXCEPTIONS: 1. Openings may be unprotected when two separated exterior stairways serve an exterior exit balcony.

2. Protection of openings is not required for open parking garages conforming to Section 311.9.

1006.12 Interior Stairway Construction. Interior stairways shall be constructed as specified in Sections 602.4, 603.4, 604.4, 605.4 and 606.4.

Except when enclosed usable space under stairs is prohibited by Section 1009.6, the walls and soffits of the enclosed space shall be protected on the enclosed side as required for one-hour fire-resistive construction.

All required interior stairways which extend to the top floor in any building four or more stories in height shall have, at the highest point of the stair shaft, an approved hatch openable to the exterior not less than 16 square feet (1.5 m²) in area with a minimum dimension of 2 feet (610 mm).

EXCEPTION: The hatch need not be provided on pressurized enclosures or on stairways that extend to the roof with an opening onto that roof.

Stairways exiting directly to the exterior of a building four or more stories in height shall be provided with means for emergency entry for fire department access.

1006.13 Exterior Stairway Construction. Exterior stairways shall be constructed as specified in Sections 602.4, 603.4, 604.4, 605.4 and 606.4.

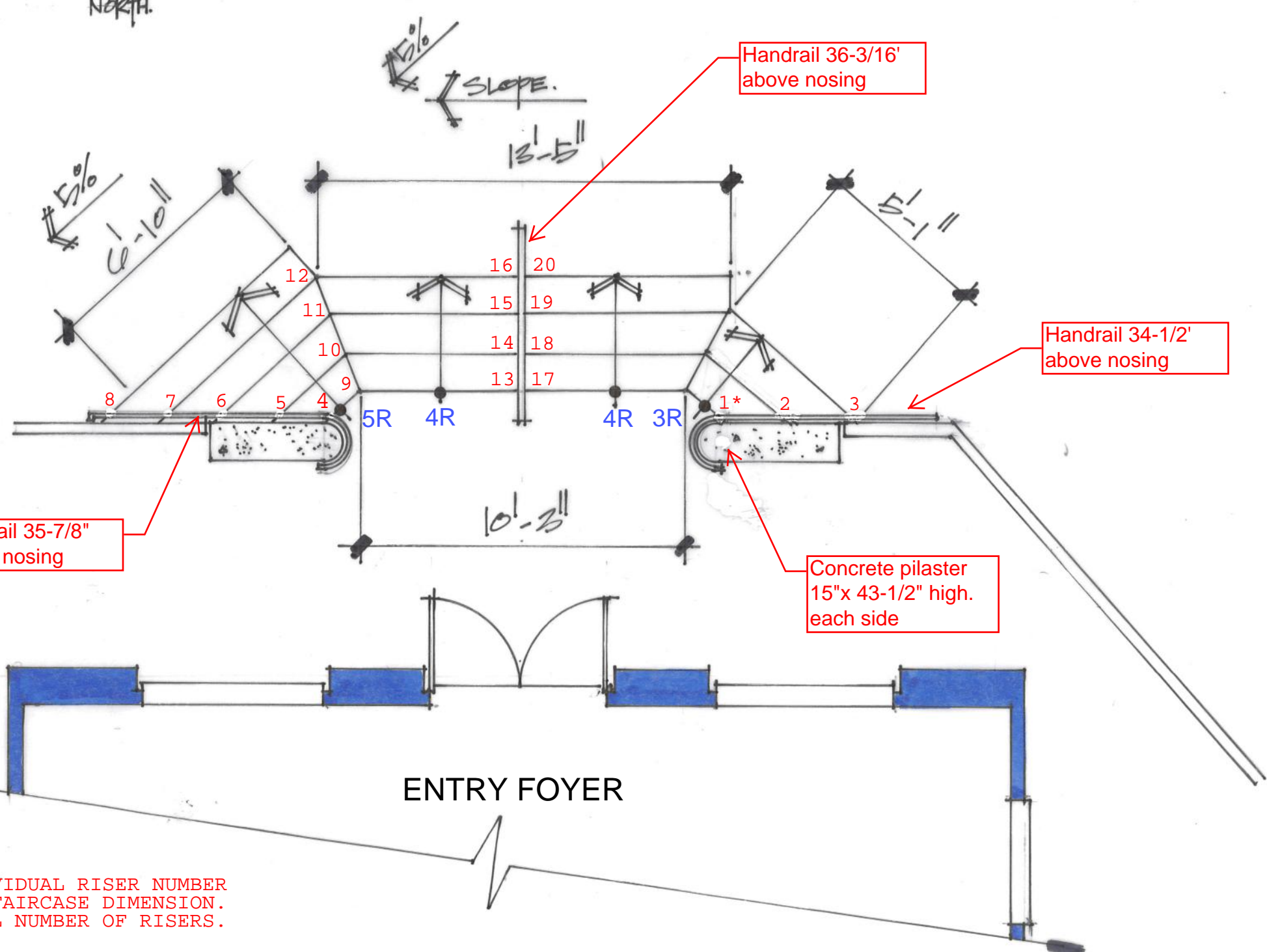
Exterior stairways shall not project into yards where openings are not permitted or protection of openings is required.

Enclosed usable space under stairs shall have the walls and soffits protected on the enclosed side as required for one-hour fire-resistive construction.

Stairways exiting directly to the exterior of a building four or more stories in height shall be provided with means for emergency entry for fire department access.

1006.14 Stairway to Roof. In buildings four or more stories in height, one stairway shall extend to the roof surface, unless the roof has a slope greater than 4 in 12. See Section 1006.12 for roof hatch requirements.

1006.15 Headroom. Every stairway shall have a headroom clearance of not less than 6 feet 8 inches (2032 mm). Such clearances shall be measured vertically from a plane parallel and tangent to the stairway tread nosings to the soffit above at all points.



PIER RAMP

ENTRY FOYER

NOTES:
1*: INDIVIDUAL RISER NUMBER
SEE 2E STAIRCASE DIMENSION.
4R: TOTAL NUMBER OF RISERS.

Riser Variance

#	Step #	Riser Height (Inches)	Variance (Inches)	Notes	Tread Width (Inches)
1	Left Stair				
2	1	7 1/16			
3	2	7	- 1/16	Acceptable	
4	3	6 13/16	- 3/16	Acceptable	
5					
11	Right Stair/Right				
12	4	6 15/16			15
13	5	7 1/16	1/8	Acceptable	14 15/16
14	6	7	- 1/16	Acceptable	15
15	7	7	0	Acceptable	15 1/4
16	8	5 13/16	-1 3/16	Established grade	
17					
18	Right Stair/Left				
19	9	7 1/16			15
20	10	7 1/8	1/16	Acceptable	14 15/16
21	11	6 15/16	- 3/16	Acceptable	15
22	12	7	1/16	Established grade	15 1/4
23					
24	Middle Stair at right				
25	13	6 15/16			15
26	14	7 1/16	1/8	Acceptable	15
27	15	6 13/16	- 1/4	Acceptable	14 13/16
28	16	4 3/16	-2 5/8	Established grade	
29					
30	Middle Stair at left				
31	17	7 1/16			15 1/8
32	18	7 1/8	1/16	Acceptable	15
33	19	7 1/16	- 1/16	Acceptable	14 7/8
34	20	1 5/8	-5 7/16	Established grade	
35					
36	NOTES:				
37	Starting from top going down				
38	Section 3306 (c) The run shall not be less than 11" (measured from furthest project of tread).				
39	Section 3306 (c) The rise of every step shall be not less than 4" or greater than 7".				
40	Section 3306 (c) The greatest riser height within any flight shall not exceed the smallest by more than 3/8".				
41	Section 3306 (c) Exception 2: Where the bottom or top riser adjoins a sloping public way having an established grade and serving as landing, the bottom or top riser may be reduced along the slope to less than 4" in height with the variation in height of the top or top riser not to exceed 3" in every 3 feet of stairway width.				
42					

**SANTA MONICA FIRE DEPARTMENT
FIRE DEPARTMENT PERMIT/OCCUPANT LOAD**

BUSINESS ADDRESS

1602 Ocean Avenue
The Lobster

- ☒ PERMIT TO OPERATE A PLACE OF PUBLIC ASSEMBLY
PERMIT TO USE PROPANE HEATERS
☒ PERMIT TO USE OPEN FLAME OR APPROVED CANDLES

**MAXIMUM OCCUPANT LOAD FOR THIS BUILDING OR ROOM
NOT TO EXCEED:**

181

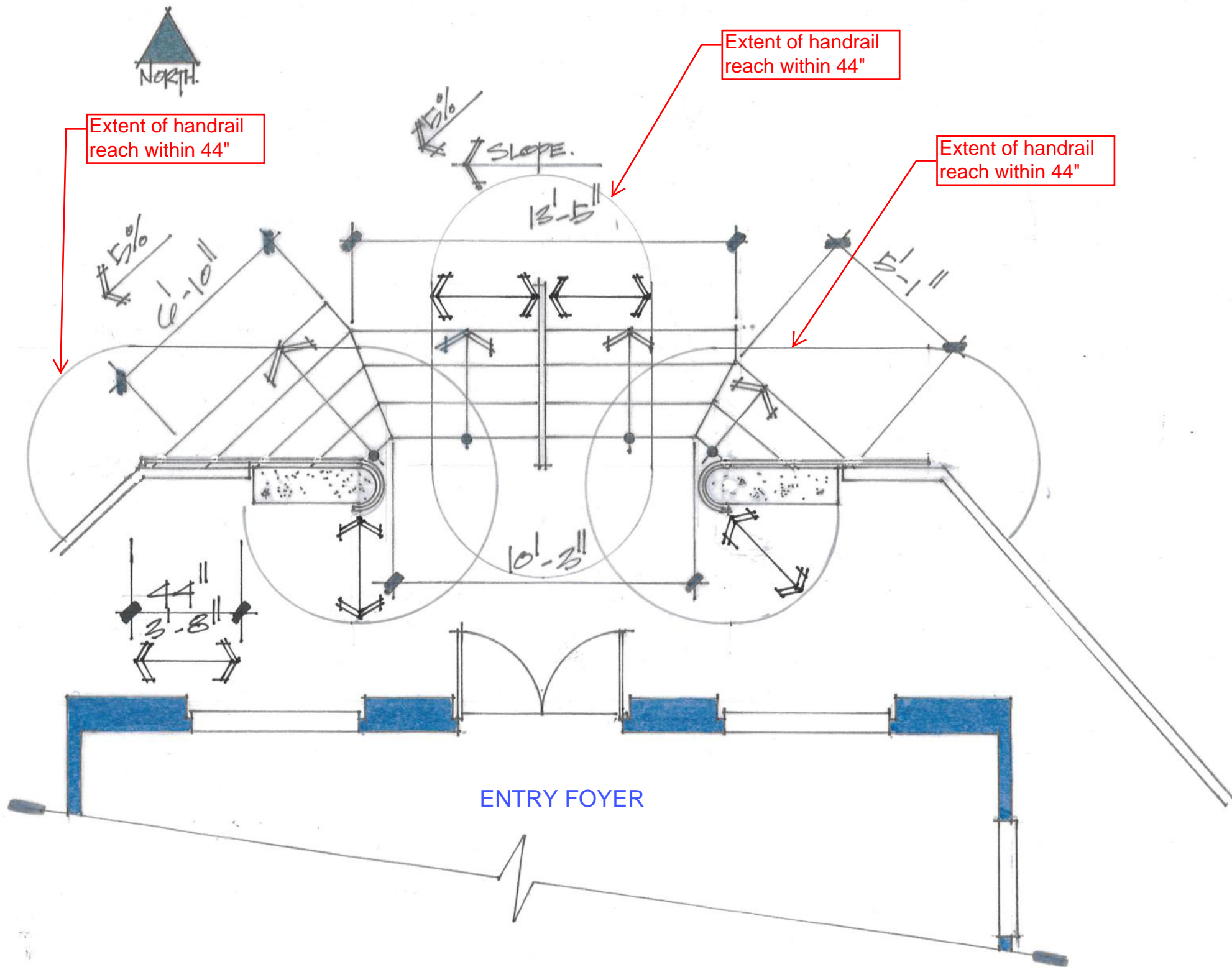
PERSONS

THIS PERMIT IS TO BE CONSPICUOUSLY POSTED IMMEDIATELY ADJACENT TO THE MAIN ENTRANCE.
APPROVED BY Paul Radomski TITLE Senior Fire Inspector

THIS PERMIT EXPIRES ON THIS DATE

01/31/2013

IT IS THE PERMIT HOLDERS RESPONSIBILITY TO APPLY FOR RENEWAL AND PAY REQUIRED FEES.
TO REPORT OVERCROWDING OR BLOCKED EXITS PLEASE CALL (310) 458-8915.
AFTER 4:30 PM PLEASE CALL (310) 458-8671.



David [REDACTED] v [REDACTED] Construction

853 [REDACTED] Drive, Palmdale, CA 93551



OFFICES

CALIFORNIA

949-240-9971

931 Calle Negocio, Ste J
San Clemente, CA 92673

CA License #713760

OREGON

503-246-3744

9320 SW Barbur Blvd, Ste 170
Portland, OR 97219

OR License #173960

GENERAL INQUIRY

info@petefowler.com
www.petefowler.com

Date: November 25, 2014
To: [REDACTED]
[REDACTED]
[REDACTED] Figueroa Street, 15th Floor
Los Angeles, CA 90017
T: (213) 624-6900
E: [REDACTED]
From: Pete Fowler Construction Services, Inc.
Project: David [REDACTED] v [REDACTED] Construction (PFCS 14-274)
Regarding: Inspection Summary
Note: Confidential Attorney-Client and Attorney Work Product. Protected under all applicable evidence codes.

Project Overview

- A claim was filed in 2012 by plaintiff David [REDACTED] against several parties, including your client [REDACTED] Construction, Inc. who was the general contractor during construction of the project.
- Mr. [REDACTED] worked as an air conditioning mechanic at the project, where on February 18, 2010 he attempted to use a roof access hatch ladder at Building 6 and injured himself in the process. Based on his deposition, upon exiting the roof hatch onto the roof, his shoelace caught on the ladder/hatch's "locking tab" causing him to fall, during which his left knee impacted a steel girder, causing his body to twist. He has had surgery on his knee and has lower back problems as well. Mr. Boucher is seeking a claim of \$2 million.

General Inspection Summary

- Paul Kushner and Pete Fowler conducted a visual site inspection of the property on November 11th, 2014. The property is a commercial complex with seven separate single-story buildings. The exteriors incorporate an Arts and Crafts motif which is finished with exterior stucco with inset wood trim and wood gable rafters. The exteriors of the buildings are typically surrounded by a sloped mansard wall finished with flat concrete tile.

- The interior roof levels of the buildings, which are formed by either the tile roof mansards or high parapet walls, enclose the mechanical and equipment well for each building. These areas consist of low-slope built-up roofs with integral roof drains and overflows. The mechanical wells contain the individual HVAC packaged units and other electrical and mechanical equipment for the individual tenants spaces below
- Access to the mechanical well of Building 6 is provided by a fixed rail ladder. A rail ladder is defined as a fixed ladder consisting of side rails jointed at regular intervals by rungs and fastened in full length to the structure. The ladder is attached to the wall beneath the roof hatch in an attached room. The top of the ladder is situated within a framed opening in the roof framing assembly. The walls of the Roof Access room are finished with drywall. The seams have been taped and mudded.
- The fixed ladder is bolted at the floor and wall through 3-inch square anchor plates. The outside dimension of the fixed ladder is approximately one foot, four and one-half inches wide (16-1/2"). The inside dimension is approximately one foot, three and seven-eighth inches (15-7/8"). The side rails are jointed by round rungs at twelve inches on center. There is no sign that the fixed ladder has been re-positioned since original installation.
- There is a Ladder-Up Safety post (Model Number LU-115) manufactured by The Bilco Company attached to the top rungs of the fixed ladder. (See attached Roof Access Ladder Elevation)
- The roof opening is protected by a metal roof hatch manufactured by Lane-Aire Manufacturing Corporation. The net opening of the roof hatch is 30 inches by 30 inches. The roof hatch is positioned approximately two and one-eighth inches (2-1/8") from the high roof parapet wall (See attached Hatch Plan)
- The roof hatch is situated along a five foot eight inch (5'-8") high parapet wall that is part of the mechanical well enclosure. The fixed rail ladder faces the parapet wall. As you climb the fixed rail ladder the hinges for the hatch are to the right. The inside hasp, outside hasp, latch device and lever handle are situated to the left. The hasps are the metal tabs, with aligning holes, which permit the hatch to be locked with a padlock from either the interior or exterior. The hatch operating system with the grip handle is behind the fixed ladder. In this configuration the hatch opens parallel to the parapet wall. (See attached Lane Aire Roof Hatch detail)
- The roof hatch is located approximately five feet eight inches (5'-8") away from the roof drain and overflow sump. The sump is the depression within the built up roofing material where the drain and overflow sits. The built up roof is sloped around the hatch to direct roof runoff from both the low slope roof and the surrounding tiled sloped roofs into the drains.



Representative Photographs

GENERAL PHOTOS



PK-01.004; 11/04/2014; Building 6; Inside corner, entrance door to mechanical well.

ROOF



PK-01.013; 11/04/2014; Building 6; Roof; Roof hatch open position from the roof side ± 13' - 5 3/4" from top of hatch to the slab on grade below.



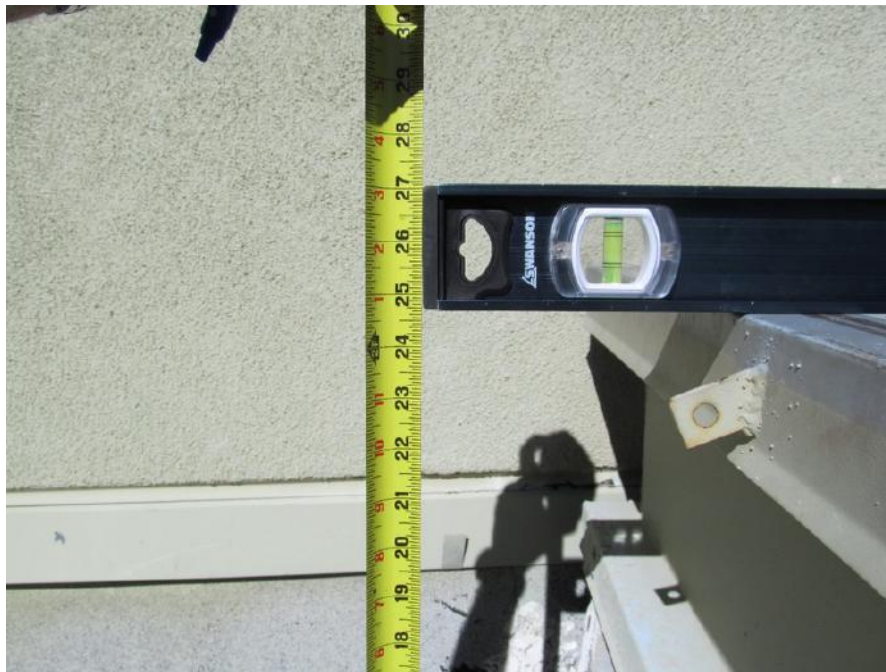
PK-01.014; 11/04/2014; Building 6; Roof; Roof hatch open position from the roof side ± 13' - 5 3/4" from top of hatch to the slab on grade below.



PK-01.016; 11/04/2014; Building 6; Roof; Top edge of the roof hatch is 13 -15 3/4" from the slab on grade concrete floor below. See A/2.



PK-01.019; 11/04/2014; Building 6; Roof; Top of safety pole extends 8 1/2" above the top edge of the roof hatch.



PK-01.085; 11/04/2014; Building 6; Roof; The cap sheet is $\pm 24 \frac{3}{4}$ " from the roof hatch level ± 6 " from the edge over the latching mechanism / receiving bolt.



PK-01.087; 11/04/2014; Building 6; Roof; The cap sheet is $\pm 24 \frac{3}{4}$ " from the roof hatch level ± 6 " from the edge over the latching mechanism / receiving bolt.



PK-01.091; 11/04/2014; Building 6; Roof; Elevation view with hinge side to the right-hand side.



PK-01.094; 11/04/2014; Building 6; Roof; Parapet wall, knee brace is $\pm 46 \frac{1}{2}$ " from the hatch opening.



PK-01.108; 11/04/2014; Building 6; Roof; 13 " wide step ladder side rail is 4 3/4" from the well framing.

ROOF ACCESS



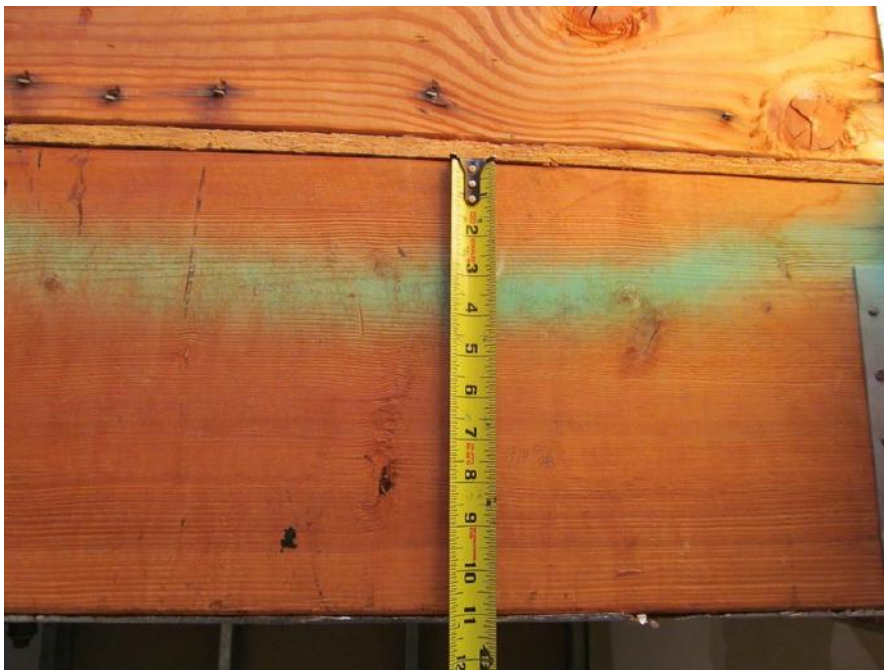
PK-01.006; 11/04/2014; Building 6; Roof Access; Step ladder approach to roof hatch.



PK-01.021; 11/04/2014; Building 6; Roof Access; Top of step ladder is $\pm 11' - 2 \frac{1}{16}''$ above slab on grade concrete below. See A/2.



PK-01.025; 11/04/2014; Building 6; Roof Access; Bottom of structural joist at ± 9' - 10 5/8" above the slab on grade concrete below. See A/2.



PK-01.029; 11/04/2014; Building 6; Roof Access; Structural joist ± 11" deep.



PK-01.032; 11/04/2014; Building 6; Roof Access; Structural sheathing $\pm 1/2$ " thick. See A/2.



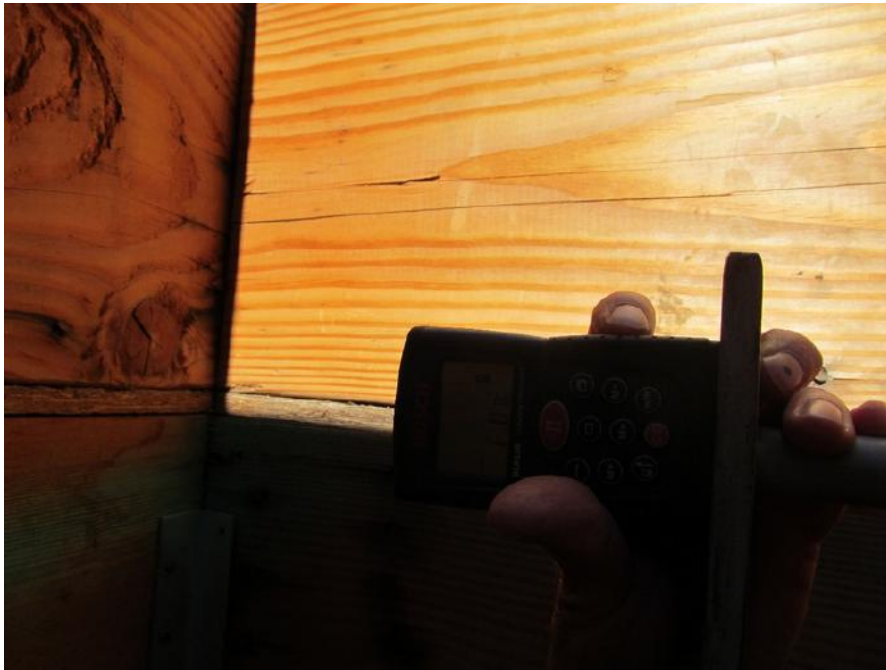
PK-01.033; 11/04/2014; Building 6; Roof Access; Depth of the hip strip blocking ± 11 " thick. See A/2.



PK-01.036; 11/04/2014; Building 6; Roof Access; Curb \pm 7" deep. See A/2.



PK-01.045; 11/04/2014; Building 6; Roof Access; Roof hatch curb with built up roof cap sheet and disc nails visible along top edge beneath the roof hatch metal flange / flashing.



PK-01.050; 11/04/2014; Building 6; Roof Access; Distance of the metal step ladder outside edge to adjacent framing at the top $\pm 12 \frac{1}{16}$ ". See A/2 and A/1.



PK-01.051; 11/04/2014; Building 6; Roof Access; Distance of the metal step ladder outside edge to adjacent framing at the top $\pm 12 \frac{1}{16}$ ". See A/2 and A/1.



PK-01.052; 11/04/2014; Building 6; Roof Access; Distance of the metal step ladder outside edge to adjacent framing at the top $\pm 12 \frac{1}{16}$ ". See A/2 and A/1.



PK-01.053; 11/04/2014; Building 6; Roof Access; Opposite side / hinge side with $\pm 7 \frac{1}{4}$ " from outside edge to the adjacent framing.



PK-01.055; 11/04/2014; Building 6; Roof Access; Bottom of the step ladder with 3" square plates for attachment at slab on grade concrete with wall attachments with walls taped and molded, no texture.



PK-01.059; 11/04/2014; Building 6; Roof Access; Step ladder outside dimension is $\pm 16 \frac{1}{2}$ ".



PK-01.061; 11/04/2014; Building 6; Roof Access; Step ladder inside dimension is $\pm 15 \frac{7}{8}$ ".



PK-01.063; 11/04/2014; Building 6; Roof Access; Step ladder inside dimension is $\pm 15 \frac{7}{8}$ ".



PK-01.069; 11/04/2014; Building 6; Roof Access; Mechanical well access. Side-texture ready.



PK-01.073; 11/04/2014; Building 6; Roof Access; Step ladder with texture over the 3" square plates at the horizontal attachments side grab.



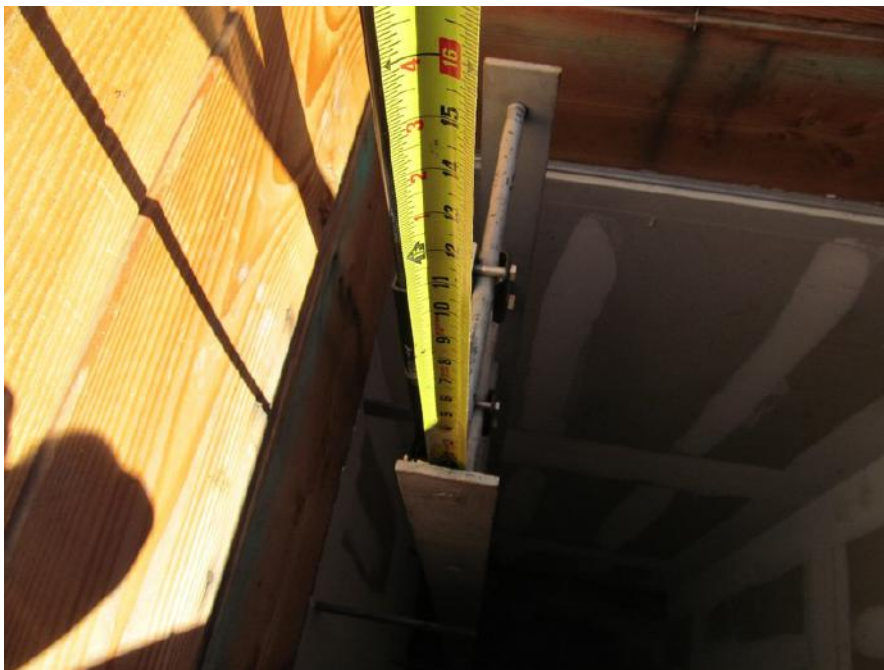
PK-01.075; 11/04/2014; Building 6; Roof Access; Top of the step ladder handrail to the roof hatch is $\pm 27 \frac{5}{8}$ ".



PK-01.076; 11/04/2014; Building 6; Roof Access; Top of the step ladder handrail to the roof hatch is $\pm 27 \frac{5}{8}$ ".



PK-01.077; 11/04/2014; Building 6; Roof Access; Top of the step ladder handrail to the roof hatch is $\pm 27 \frac{5}{8}$ ".



PK-01.080; 11/04/2014; Building 6; Roof Access; Top of the last rung is $\pm 29 \frac{1}{4}$ " below the roof hatch upper edge.



PK-01.109; 11/04/2014; Building 6; Roof Access; Step ladder rings at 12" on center.



PK-01.110; 11/04/2014; Building 6; Roof Access; Step ladder rings at 12" on center.



PK-01.111; 11/04/2014; Building 6; Roof Access; Step ladder is $\pm 9 \frac{3}{4}$ " from gypsum wallboard wall.



PK-01.113; 11/04/2014; Building 6; Roof Access; Bottom 3" square plates. No signs of pilot / drill holes in slab on grade.



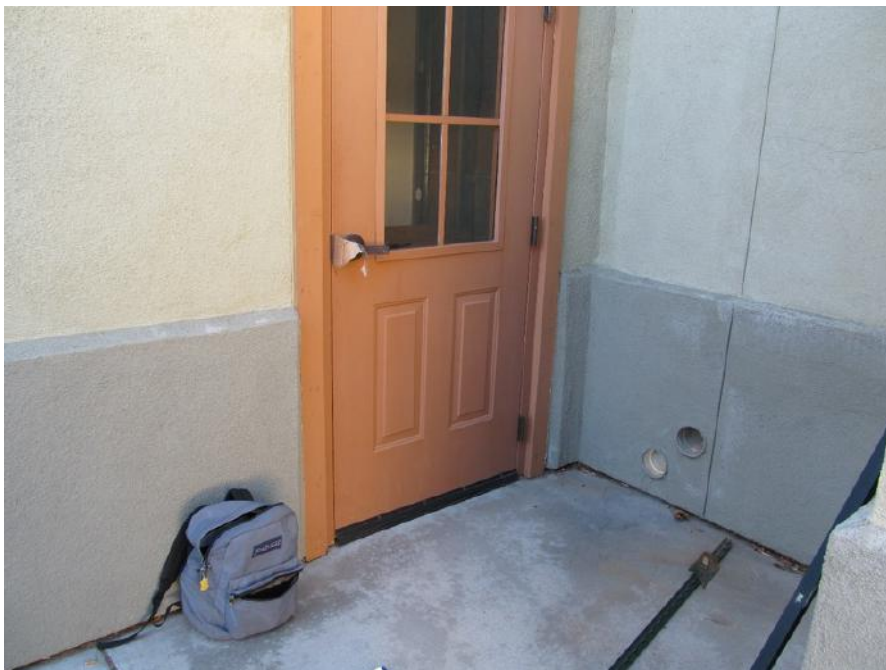
PK-01.123; 11/04/2014; Building 6; Roof Access; Top ring $\pm 1 \frac{3}{4}$ " below top of side rail.



PK-01.125; 11/04/2014; Building 6; Roof Access; Safety post. LV-115.



PK-01.127; 11/04/2014; Building 6; Roof Access; Roof access door jamb is $\pm 32 \frac{1}{2}$ " from wall. Window opening is ± 40 " away from wall.



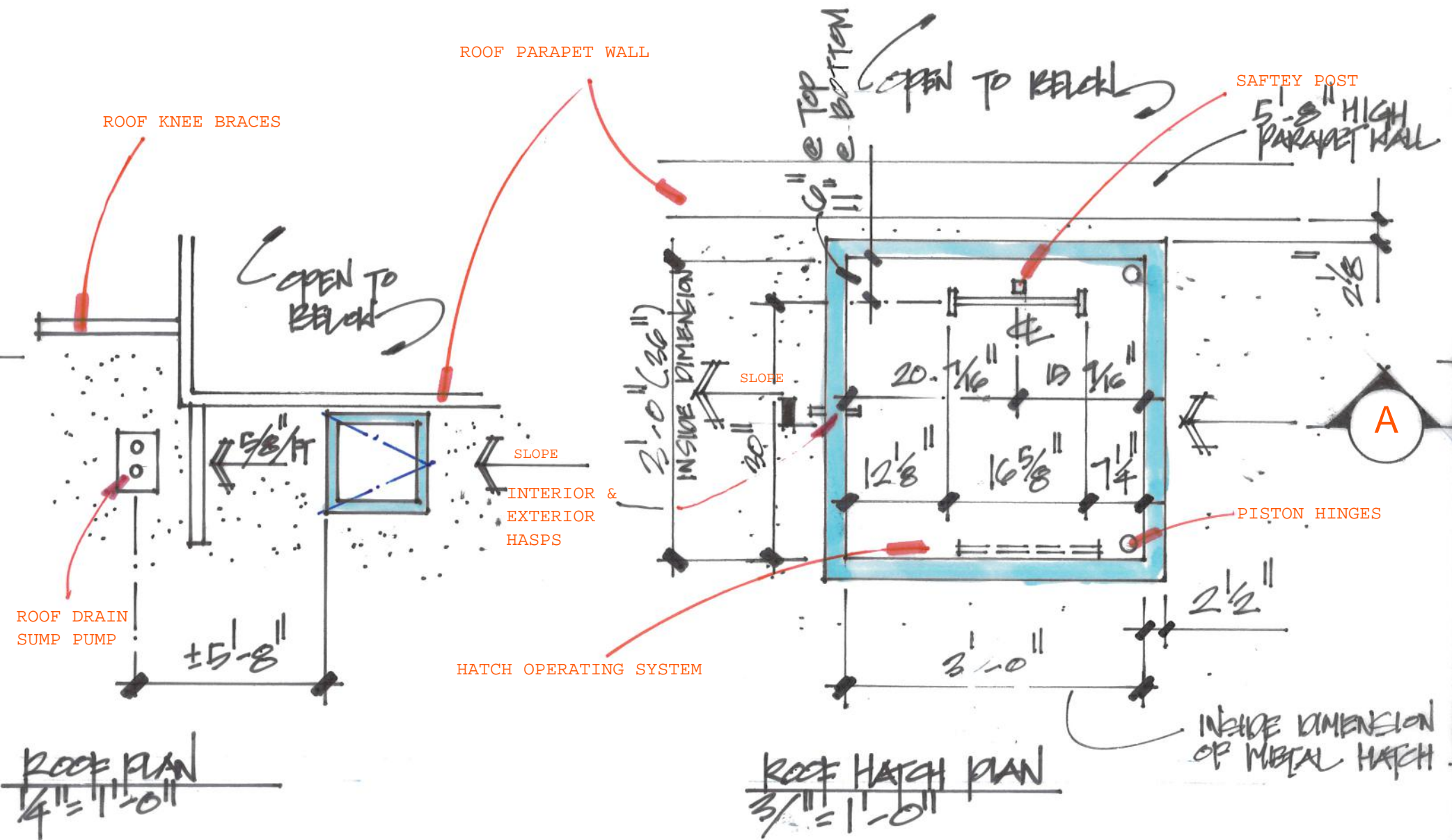
PK-01.134; 11/04/2014; Building 6; Roof Access; Roof hatch access door in closed position with roof hatch closed the far left bottom plate is visible at the lowest four left of the window opening.



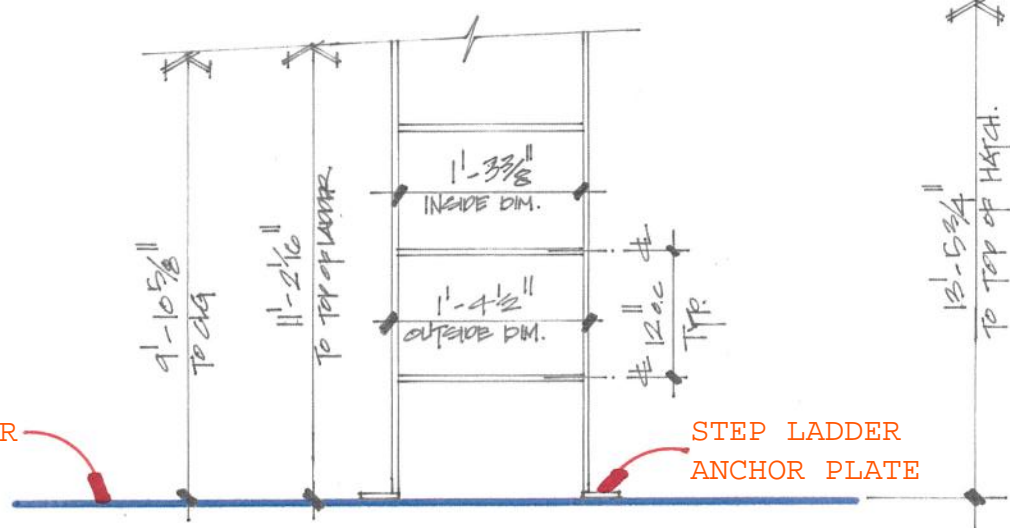
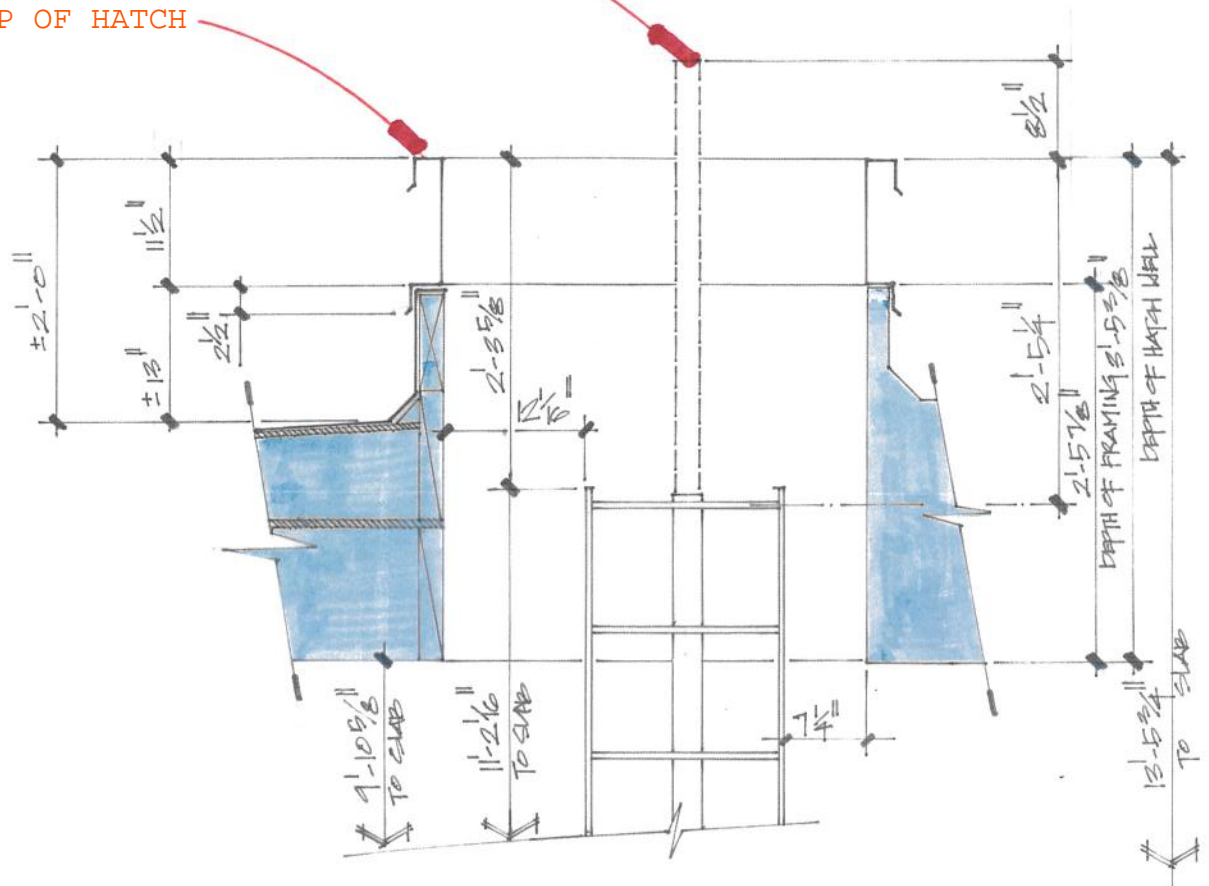
PK-01.136; 11/04/2014; Building 6; Roof Access; Roof hatch access door in closed position with roof hatch closed the far left bottom plate is visible at the lowest four left of the window opening.



PK-01.138; 11/04/2014; Building 6; Roof Access; Roof hatch access door in closed position with roof hatch closed the far left bottom plate is visible at the lowest four left of the window opening.



TOP OF HATCH

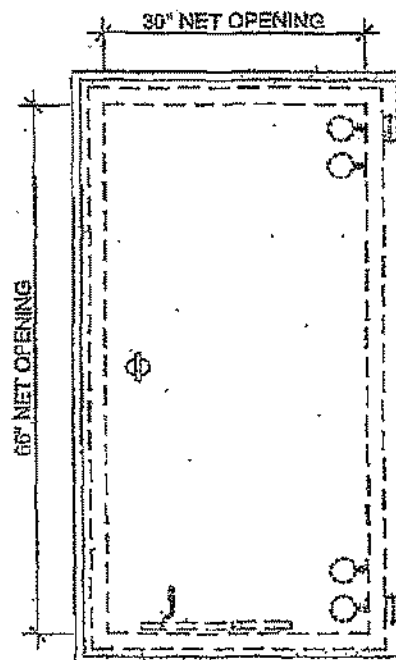


STEP LADDER ANCHOR PLATE

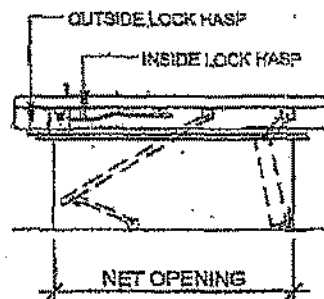
ROOF ACCESS LADDER
SCALE $\frac{3}{4}" = 1'-0"$.

A

MODEL - RHG



PLAN VIEW
NOT TO SCALE

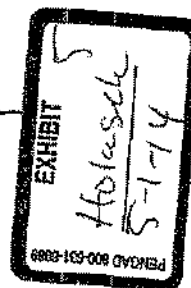


SIDE VIEW
NOT TO SCALE

MODEL : RHG-
NET OPENING : 30" x 66" ID
UNITS REQUIRED : (1) ONE
FINISH : PRIME PAINTED

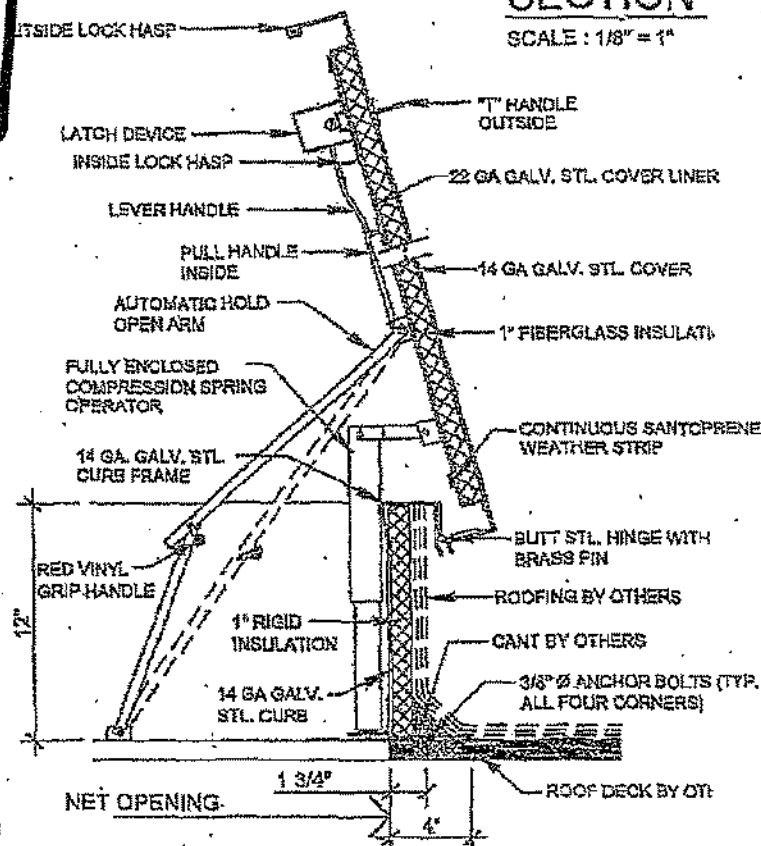
SPECIFICATIONS :

ALL PARTS SHALL BE NEATLY FORMED AND FABRICATED WITH ALL JOINTS AND SEAMS COMPLETELY WELDED TO INSURE WATER TIGHTNESS. COVER, COVER LINER, CURB AND CURB FRAME TO BE FORMED FROM GALVANIZED STEEL AND SUPPLIED WITH A GRAY METAL PRIMER FINISH. UNIT SHALL BE SUPPLIED COMPLETELY ASSEMBLED AND READY FOR INSTALLATION. UNIT WILL OPEN TO MAXIMUM 75° POSITION. ACTUAL NUMBER OF SPRING OPERATORS TO BE DETERMINED AS NEEDED FOR SMOOTH OPERATION OF UNIT.



SECTION

SCALE : 1/8" = 1"



Lane-Aire MANUFACTURING CORP.

2820 El Presidio Street, Carson, California 90748
(323) 636-2924 - FAX (310) 604-3395

JOB	Palmdale 5.6	SHEET
ARCH.		1 OF 1
CONTR.		DWG. NO.
SUB. CONTR.	M & M Sheet Metal	RHG
DRAWN BY	TJ-SZ	DATE: 2/20/07.

FEB. 21. 2007 8:23AM - LANE-AIRE MFG CORP.

NO. 973 P. 2/2

MM000007

5

Date:	January 29, 2008
To:	Mary Smith Underground Insurance PO BOX 55555, Portland, OR 95851-1108 T: (555) 852-5555 E: mary.smith@undergroundinsurance.com
From:	Pete Fowler Construction Services, Inc.
Project:	Bob's Properties – Nice Apartments PFCS # 07-373
Regarding:	Opinion Letter
Note:	Confidential Attorney-Client and Attorney Work Product. Protected under all applicable evidence codes.

Dear Ms. Smith:

As requested, PFCS performed a site inspection on January 9, 2008. At that time, we created diagrams and took photographs showing the current layout of the handrails. Our findings are set forth in this preliminary report.

Project Summary

The property in question is an apartment complex located at 12345 SE Main Road in Portland, Oregon. The Nice Apartments were constructed in 1991 and have a total of 200 units in 14 buildings, labeled A through N. The buildings are two- and three-stories in height. The walkways/staircases at the front elevation and private decks at the back elevation have guardrails composed of metal piping with horizontal intermediate members (See photos SM 01.009 and SM 01.014).

In May 2007, a woman was visiting Unit 29 in Building C and fell from the third level guardrail which she was sitting on. We were told the injured woman broke her pelvis but has since recovered. To this date, no lawsuit has been filed.

Observations

Upon arrival at the Nice Apartments, PFCS met with Bob Jones, the on-site manager. Bob directed us to the location of the accident, which was at the back deck of Unit 29.

Unit 29's deck is at the third level, is 10-feet by 6-feet, and positioned on the inside corner of the structure with a section of exterior wall approximately 27-inches wide on the east, outside corner (SM 01.028 & SM 01.029). There are two guardrails: the main rail at the back of the deck and a smaller side rail. The main guardrail is just over 9-feet long and the side guardrail is approximately 3-1/2-feet long. The horizontal railing members are 2-inch steel pipes and are welded to vertical support posts. Each support post is attached to the support beam below with two lag bolts through each welded plate

on the vertical posts. The main guardrail has three support posts and the side guardrail has two. The spacing between the horizontal guardrails is approximately 6-inches at the topmost space and approximately 5.5-inches in the remaining lower areas (SM 01.038).

In addition to the vertical support members, the side guardrail also has a single lag bolt attachment at the right end of the topmost horizontal member (SM 01.040). However, the main guardrail lacks any attachments at either end and is solely supported by the vertical posts (SM 01.043). The main guardrails at several units appeared to be leaning away from the buildings, though Unit 29's appeared to be aligned properly (SM 01.056).

The top of guardrails are approximately 36-1/4-inches above the deck surface. The deck surface is concrete with wood framing and is 18-feet from the ground. This would put the top of the guardrail at approximately 21-feet from the sidewalk below (SM 01.050).

Research

The 1988 Uniform Building Code (UBC), which likely prevailed when this project was constructed, requires a minimum height of 42-inches for guardrails. The 1988 UBC designates apartment buildings to be classified as Group R, Division 1. The code includes an exception allowing some guardrails to be only 36-inches in height. The wording is somewhat open to interpretation. Section 1711 Exception 1 reads "The top of guardrails for Group R, Division 3 and Group M, Division 1 Occupancies and interior guardrails within individual units and guest rooms of Group R, Division 1 Occupancies may be 36-inches in height." Excerpts from the 1988 UBC are attached. Since all the guardrails at these private decks have a uniform 36-inch height, it appears the building official considered the 36-inch requirement applied to these private decks. In addition, we have in our office third-party commentary (Code Check) related to this section that states "36-inch if only accessible from one unit." The 1997 UBC had the same language as 1988. The current prevailing code does not have this exception.

While the current codes require a maximum of 4-inches of space between each intermediate member, the 1988 UBC only required a 6-inch maximum, which these guardrails meet. Additionally, the 1988 UBC only requires a lateral load capacity of 20-pounds, whereas later code editions require a 200-pound lateral force capacity.

Conclusion

Although the guardrail height requirement is open to interpretation, we believe the guardrails met the code requirements as interpreted by the building official at the time of construction. Assuming no major renovations have been performed on the building, it is not necessary for the guardrails to meet current code requirements.

A separate issue unrelated to code requirements is the lack of lateral support at either end of the main guardrail. While this is not a code violation, we did observe leaning guardrails at various units. The leaning could be prevented by an attachment similar to that found at the top of the side guardrail.

Photographs



local.live.com – Aerial Image (Building C is outlined in red)



SM 01.056 Unit #29; Back elevation; Looking east, typical building.



SM 01.038 Unit #49; Back elevation; Deck. Main guardrail fastened to beam with large lag bolts.



SM 01.043 Unit #49; Back elevation; Deck railing. Side guardrail at left, main guardrail at right. Note attachment to wall at right side of left guardrail.

Chapter 12

REQUIREMENTS FOR GROUP R OCCUPANCIES

Group R Occupancies Defined

Sec. 1201. Group R Occupancies shall be:

Division 1. Hotels and apartment houses.

Convents and monasteries (each accommodating more than 10 persons).

Division 2. Not used.

Division 3. Dwellings and lodging houses.

For occupancy separations, see Table No. 5-B.

A complete code for construction of detached one- and two-family dwellings is in Appendix Chapter 12 of this code. When adopted, as set forth in Section 103, it will take precedence over the requirements set forth in Parts I through X and Chapter 60 of this code.

Construction, Height and Allowable Area

Sec. 1202. (a) General. Buildings or parts of buildings classed in Group R because of the use or character of the occupancy shall be limited to the types of construction set forth in Tables No. 5-C and No. 5-D and shall not exceed, in area or height, the limits specified in Sections 505, 506 and 507.

(b) Special Provisions. Walls and floors separating dwelling units in the same building shall be of not less than one-hour fire-resistive construction.

Group R, Division 1 Occupancies more than two stories in height or having more than 3000 square feet of floor area above the first story shall be of not less than one-hour fire-resistive construction throughout except as provided in Section 1705 (b) 2.

Storage or laundry rooms that are within Group R, Division 1 Occupancies that are used in common by tenants shall be separated from the rest of the building by not less than one-hour fire-resistive occupancy separation.

For Group R, Division 1 Occupancies with a Group B, Division 1 parking garage in the basement or first floor, see Section 702 (a).

For attic space partitions and draft stops, see Section 2516 (f).

Location on Property

Sec. 1203. For fire-resistive protection of exterior walls and openings, as determined by location on property, see Section 504 and Part IV.

Exits and Emergency Escapes

Sec. 1204. Stairs, exits and smokeproof enclosures shall be as specified in Chapter 33.

Basements in dwelling units and every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue which shall open directly into a public street, public alley, yard or exit court. The units shall be operable from the inside to provide a full clear opening without the use of separate tools.

shall extend to the same height as any portion of the roof that is within the distance where protection of wall openings would be required, but in no case shall the height be less than 30 inches.

Projections

Sec. 1710. Cornices, eave overhangs, exterior balconies and similar architectural appendages extending beyond the floor area as defined in Section 407 shall conform to the requirements of this section. (See Sections 3305 and 3306 for additional requirements applicable to exterior exit balconies and stairways.)

Projections from walls of Type I or II construction shall be of noncombustible materials.

Projections from walls of Type III, IV or V construction may be of noncombustible or combustible materials.

Combustible projections located where openings are not permitted or where protection of openings is required shall be of one-hour fire-resistive or heavy-timber construction conforming to Section 2106.

Projections shall not extend more than 12 inches into the areas where openings are prohibited.

For projections extending over public property, see Chapter 45.

For combustible ornamentation, see Section 1705 (d).

Guardrails

Sec. 1711. All unenclosed floor and roof openings, open and glazed sides of stairways, landings and ramps, balconies or porches, which are more than 30 inches above grade or floor below, and roofs used for other than service of the building shall be protected by a guardrail.

EXCEPTION: Guardrails need not be provided at the following locations:

1. On the loading side of loading docks.
2. On the auditorium side of a stage or enclosed platform.

The top of guardrails shall be not less than 42 inches in height.

EXCEPTIONS: 1. The top of guardrails for Group R, Division 3 and Group M, Division 1 Occupancies and interior guardrails within individual dwelling units and guest rooms of Group R, Division 1 Occupancies may be 36 inches in height.

2. The top of guardrails on a balcony immediately in front of the first row of fixed seats and which are not at the end of an aisle may be 26 inches in height.

3. The top of guardrails for stairways, exclusive of their landings, may have a height as specified in Section 3306 (j) for handrails.

Open guardrails shall have intermediate rails or an ornamental pattern such that a sphere 6 inches in diameter cannot pass through.

EXCEPTION: The open space between the intermediate rails or ornamental pattern of guardrails in areas of commercial and industrial-type occupancies which are not accessible to the public may be such that a sphere 12 inches in diameter cannot pass through.

DECLARATION OF PETER D. FOWLER

1 Management, I am a licensed general building contractor, professional cost estimator, have
2 published articles in national magazines and have been invited to speak by the most important
3 groups in the construction industry (ICC, ASTM, NIBS, RCI, BETEC, NAWIC, CAI, etc.).
4 Attached hereto as Exhibit 1 is a true and correct copy of my curriculum vitae.

5 2. I have been retained by defendant, [REDACTED] Construction, Inc. as an expert consulting
6 witness in this case. I have personal knowledge of the facts stated herein and if called as a witness
7 I could and would competently testify thereto.

8 3. I make this declaration in support of the Opposition of Settling Defendants to the
9 Motion of [REDACTED] Contesting the Good Faith of the Settlement.

10 4. I have reviewed the "Inspection Report" by [REDACTED] - Construction Forensics &
11 Consulting dated 3/9/2015 signed by [REDACTED] on page 23 and the unsigned and undated
12 Declaration of [REDACTED] from March 2015.

13 5. The report contains a section entitled "OSHA" on pages 20-21. [REDACTED] Multi-
14 employer Work Sites analysis is not applicable to this project since the construction concluded
15 more than two years prior to the incident. See the CAL-OSHA Pocket Guide for Construction
16 Industry: Multi-employer Work Sites, specifically page 104 of the 2000 edition ([http://www.ca-](http://www.ca-osh.com/pdfpubs/constr_g.pdf)
17 [osha.com/pdfpubs/constr_g.pdf](http://www.ca-osh.com/pdfpubs/constr_g.pdf)) or pages 116-117 of the 2013 edition
18 (http://www.dir.ca.gov/dosh/dosh_publications/ConstGuideOnline.pdf).

19 6. Even if a Multi-employer Work Sites analysis were applicable, [REDACTED] analysis is
20 wrong. [REDACTED] calls [REDACTED] Construction the Creating Employer and the Correcting Employer, which
21 is incorrect. RCH was the Controlling Employer during construction, but the accident occurred
22 two years after construction, so this is technically wrong as well. That is, RCH was not in control
23 of this property at the time of the accident.

24 7. Based on the declaration, the project documentation reviewed by [REDACTED] is limited.
25 Contracts between the parties are important (and often critical) to the understanding of the roles
26 and responsibilities on construction projects or any multi-employer work sites. Consequently,
27 [REDACTED] could not have a complete command of the roles and responsibilities of the various parties
28 during the course of construction.

1 8. Based upon (A.) [REDACTED]'s incorrect Multi-employer Work Sites analysis and (B.) his
2 limited access or analysis of project information, [REDACTED] is in no position to offer opinions as to the
3 allocation of responsibility in this matter, therefore his opinions on this subject of allocation of
4 responsibility to various parties should be ignored.

5
6 I declare under penalty of perjury under the laws of the state of California that the
7 foregoing is true and correct. Executed this 15th day of April, 2015 at San Clemente, California.

8
9 

10 Peter D. Fowler
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P e t e F o w l e r
CONSTRUCTION
S e r v i c e s , I n c .

San Clemente, CA
T: (949) 240-9971 F: (949) 240-9972

Portland, OR
T: (503) 246-3744 F: (949) 240-9972

For mediation purpose only. Protected by all evidence code sections.

Trial Testimony: Evergreen Construction Inc.

Pete Fowler Construction Services, Inc.
April 2008

Smith v. SP Sunnydale

Evergreen Construction Inc.

PFCS XX-175



Prepared for :

*Daniels, Franklin & Larson, LLP
4500 All-star Lane
Main Town, CA 99999*

Outline

1. Pete Fowler Construction Services
2. Project Overview
3. Contracting 101
4. The Incident
5. Allegations
6. Conclusions

1. Pete Fowler Construction Services, Inc.

A. Peter D. Fowler: Experience Summary

B. Pete Fowler Construction Services, Inc.

A. Peter D. Fowler: Experience Summary

Pete Fowler is the founder and president of a construction consultancy, with offices in California and Oregon, which is currently delivering services in virtually every phase of the building construction life-cycle including design, estimating, construction management, property inspection and testing, construction claims, training, and expert witness testimony.

Mr. Fowler is a General Contractor, Certified Professional Cost Estimator, Construction Consultant, and author of articles in national publications including Window and Door Magazine and The Journal of Light Construction. Focusing on construction projects and buildings suffering distress, he has analyzed damage, performed testing, specified and overseen repairs, performed repairs as a contractor and testified on a wide variety of construction issues. In addition to numerous Expert depositions and trial testimony, Pete has been qualified as an Expert and has delivered testimony in Federal Court.

A. Peter D. Fowler: Experience Summary

Mr. Fowler has been invited to speak regarding construction topics by organizations such as American Architectural Manufacturers Association (AAMA), Building Environment and Thermal Envelope Council (BETEC), International Code Council (ICC), National Institute of Building Sciences (NIBS), and UCLA School of Public Health. Pete is an Oregon Certified Home Inspector, an AAMA "Certified Installation Master", a Board Member of Installation Masters Institute (IMI) which trains window installers, a former International Conference of Building Officials (ICBO) Certified Inspector, and continues to regularly deliver seminars on topics including windows and doors, building codes, building performance analysis and repair strategies.

See *Peter D. Fowler Curriculum Vitae* for details and list of publications.

B. Pete Fowler Construction Services, Inc.

Pete Fowler Construction Services, Inc. is a team of consultants with expertise in all phases of building construction including design, estimating, construction management, inspection, testing, repair, construction defect forensics, and training. We specialize in delivering professional solutions for building projects in distress, dispute, or litigation, and in expert witness testimony. We listen to our client's individual needs, evaluate their situation, and use our unique systems to deliver comprehensive solutions with excellence, value, and integrity. Our methods are designed to guide clients through their situation in the fastest, most cost effective way, creating actionable information everyone can use to make informed decisions.

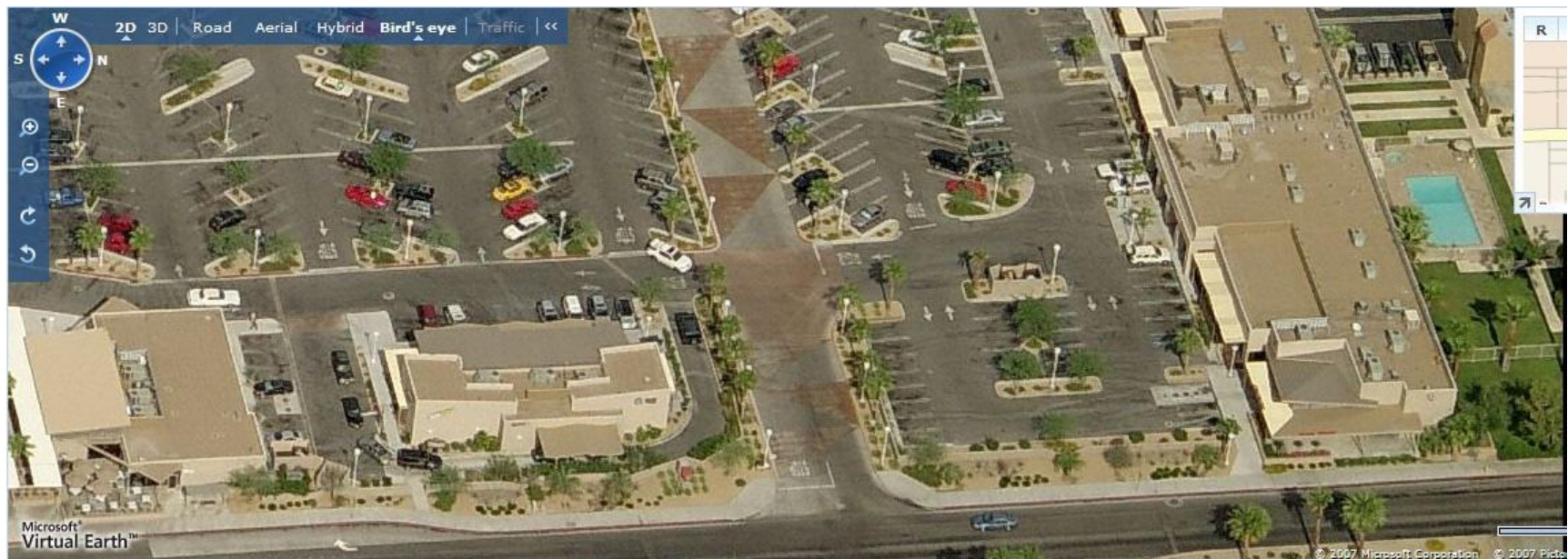
2. Project Overview

- A. Aerial Images & Site Plan
- B. Project Summary
- C. Major Parties Involved
- D. Timeline of Important Events
- E. Documents Reviewed
- F. Observations

A. Aerial Images & Site Plan (1 of 3)



A. Aerial Images & Site Plan (2 of 3)



A. Aerial Images & Site Plan (3 of 3)



B. Project Summary *(1 of 3)*

The Sunnydale Shopping Center is located at the corner of Ramon Road and South Sunnydale Way in the City of Main Town, CA. The center is anchored by a Ralphs Grocery Store and a Sav-On Drug Store at the back of the center. Strip stores along the front and side perimeters of the property include Starbuck's, Carl's, Jr. and Panda Express.

There are three vehicular entrances to the center, two off Ramon Road and one off South Sunnydale Way. There are several pedestrian entrances to the center off both Ramon Road and South Sunnydale Way.

There is no pedestrian access to the center directly next to the South Sunnydale Way vehicular entrance. The nearest pedestrian access would be either to the north by the strip stores that include Panda Express or to the south by the strip stores that include Starbuck's.

B. Project Summary *(2 of 3)*

Evergreen Construction entered into a contract for \$300,000.00 with Linden Development on October 28, 2002 to act as the general contractor for the construction of the parking lot and some of the strip stores and food courts on both sides of the South Sunnydale Way entrance.

Evergreen was not the general contractor for the Ralphs or the Sav-On or for some of the other stores in the center like the Carl's, Jr.

Evergreen Construction began work at the site on December 3, 2002 and completed their work on the project on January 13, 2004.

B. Project Summary (3 of 3)

The incident involved in this project occurred on November 15, 2003 at approximately 7:00 p.m. William M. Smith, after making some purchases at Ralphs, was walking on the South Sunnydale Way vehicular entrance / exit towards South Sunnydale Way when he allegedly sustained injuries from a slip and fall as he stepped on a planter curb to avoid oncoming traffic.

The day of the incident was a Saturday and there was no construction going on that day or the following day which was a Sunday. At that time of the incident, only the two anchor stores, Ralphs and Sav-On, were open for business. Construction was continuing on the other stores and Evergreen Construction was in the process of building a CMU wall along the South Sunnydale Way vehicular entrance.

C. Major Parties Involved

- William Michael Smith – *Plaintiff*
- Rolando Ramirez – *Plaintiff Roommate/ Witness*
- Dirk Evergreen – *Owner, Evergreen Construction, Inc.*
- Alan Boller – *Supervisor, Evergreen Construction, Inc.*
- Larry Linden – *President, SP Sunnydale Place / LM2*
- Gary Baxter – *Vice-President , SP Sunnydale Place / LM2*
- Flora Grattani – *Property Manager, LM2/ Tuco Management*
- Bill Lowry – *Store Manager, Ralphs Supermarket*
- National – *Fence Contractor*
- Berkely – *General Contractor for Ralphs*
- Big Western – *General Contractor for Sav-On*
- T&Z Sweeping – *Hired by Tuco Management to sweep center*

D. Timeline Of Important Events *(1 of 2)*

- 10/28/02 – Evergreen Construction contracts with Linden Development for Sunnydale Shopping Center (AIA Standard Form of Agreement Between Owner and Contractor)
- 12/03/02 – Construction begins at center (Evergreen Daily Log)
- 01/09/03 – National installs temporary fence around perimeter of site (Evergreen Daily Log)
- 05/03/03 – Handicapped ramps poured at Ramon entrance (Evergreen Daily Log)
- 07/02/03 – Concrete poured at Sunnydale entrance (Evergreen Daily Log)
- 07/03/03 – Flatwork poured at Ramon and Sunnydale entrances (Evergreen Daily Log)
- 07/25/03 – Property Manager fax of site plan to Evergreen noting areas where fence is to removed (7/25/03 Fax)
- 07/29/03 – Tomlin relocated fence as requested (Evergreen Daily Log)
- 07/29/03 – Certificate of Occupancy issued by City of Main Town for Ralphs

D. Timeline Of Important Events *(2 of 2)*

- 07/30/03 – Ralphs Grand Opening. Two pedestrian accesses open off Ramon (Deposition of Bill Lowry, Ralphs Store Manager)
- 08/22/03 – T&Z Sweeping begins sweeping driveways and parking areas 3 days a week (Invoice 9888 to Tuco Management)
- 09/10/03 – Certificate of Occupancy issued by City of Main Town for Sav-On
- 11/15/03 – Incident involving plaintiff William M. Smith.
- 11/15/03 – Saturday – no construction at site (Evergreen Daily Log)
- 11/16/03 – Sunday – no construction at site (Evergreen Daily Log)
- 11/18/03 – Customer incident report prepared by Ralphs
- 01/14/04 – Certificate of Occupancy issued by City of Main Town for Carl's Jr.
- 05/27/04 – Certificate of Occupancy issued by City of Main Town for Starbuck's
- 10/17/04 – Certificate of Occupancy issued by City of Main Town for Panda Express

E. Documents Review.

See Document Index and Timeline for details.

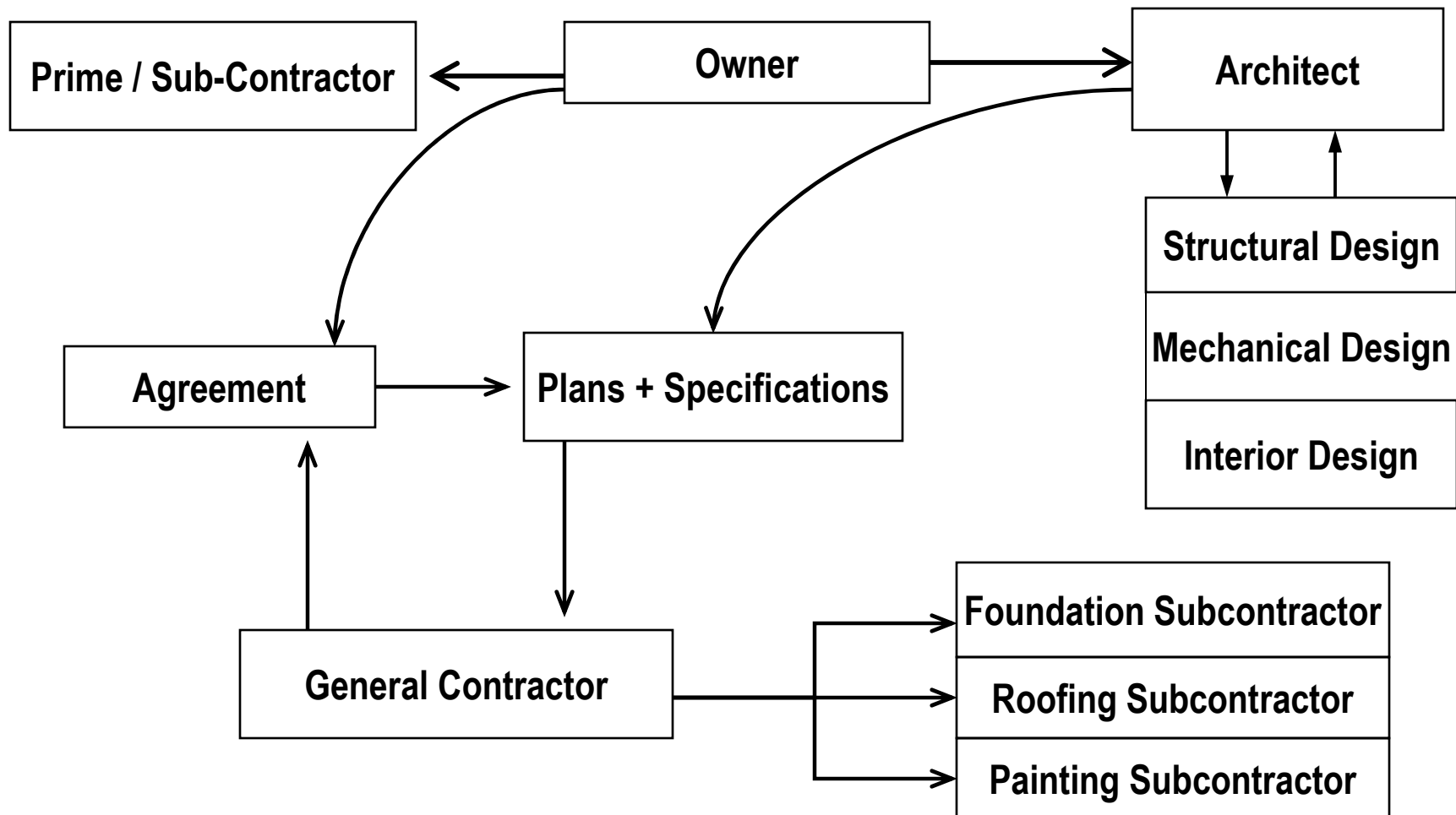
F. Observations

PFCS conducted visual inspections on June 5, 2006.

3. Contracting 101

- A. Contracting 101: Framework
- B. Contracting 101: Example
- C. This Project

A. Contracting 101: Framework



A. Contracting 101: Example *(1 of 3)*

1. Owner
2. Architect
3. Specialty (Sub) Designers
4. Plans and Specifications
5. General Contractor
6. Agreement
7. Subcontractors
8. Prime Contractors (Specialty / Trade / Subcontractor) to the Owner

A. Contracting 101: Example (2 of 3)

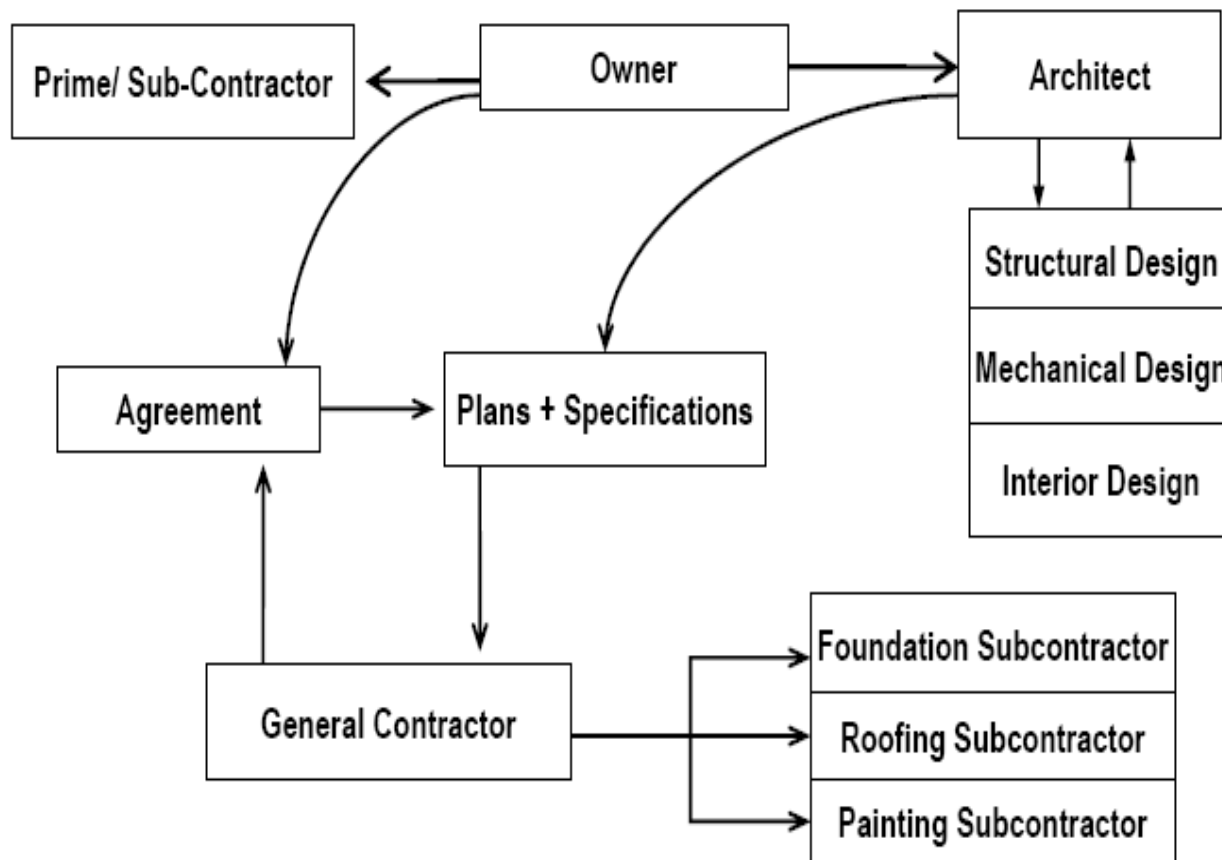
The Owner (1.) wants a project, similar to anyone who wants to buy something, such as a car, but with a construction project the product being purchased is not something that is already built. The Owner goes to an Architect (2.) to translate his / her desires into a set of documents. The Architect works with (3.) Specialty (Sub) Designers such as structural engineers, mechanical engineers and interior designers to place the details in the (4.) Plans and Specifications (Construction Documents) what the Owner wants to buy from a (5.) General Contractor (GC). The Plans and Specifications are sent to qualified and interested GCs, who then submit the proposals to the Owner. Ultimately the Owner and a GC compose an (6.) Agreement (or Contract).

A. Contracting 101: Example (3 of 3)

An Agreement (or Contract) for construction is simply "a promise by the Contractor to deliver what is described in the Plans and Specifications and a promise by the Owner to pay for it." The Agreement refers to the Plans & Specifications and should include the Scope of Work including: Inclusions and Exclusions, Allowances, a provision for handling Change Orders, and Payment Milestones or a Schedule of Values. GCs usually hire (7.)

Subcontractors, who are specialists in their respective trades, to help deliver what has been promised in the Agreement. There is nothing in this scheme which prohibits the Owner from hiring (8.) Prime Contractors (Specialty / Trade / Subcontractor) directly for work that is not in the Scope of Work in the Agreement with the GC.

C. This Project (1 of 2)



C. This Project (2 of 2)

Parties Involved

- William Michael Smith – *Plaintiff*
- Rolando Ramirez – *Plaintiff Roommate/ Witness*
- Dirk Evergreen – *Owner, Evergreen Construction, Inc.*
- Alan Boller – *Supervisor, Evergreen Construction, Inc.*
- Larry Linden – *President, SP Sunnydale Place / LM2*
- Gary Baxter – *Vice-President , SP Sunnydale Place / LM2*
- Flora Grattani – *Property Manager, LM2/ Tuco Management*
- Bill Lowry – *Store Manager, Ralphs Supermarket*
- National – *Fence Contractor*
- Berkely – *General Contractor for Ralphs*
- Big Western – *General Contractor for Sav-On*
- T&Z Sweeping – *Hired by Tuco Management to sweep center*

4. The Incident

A. Recount

B. Site Map

A. Recount (1 of 2)

As recounted by William Smith in his March 17, 2005 deposition:

At the time of the incident, William Smith lived in an apartment building one block north of the Sunnydale Shopping Center. He had lived there since early 2003. Mr. Smith had been to the Ralphs at least fifty times prior to the incident as the market had been open for several months. The Ralphs and the Sav-On were the only two stores open for business. He was aware that the shopping center was still an active construction site. There was a construction trailer at the site and a construction fence and many of the other stores were still under construction.

It was Mr. Smith's habit to walk from his apartment to the center along the public sidewalk on Sunnydale. Then he would walk along the vehicular driveway that entered the center off Sunnydale towards the Ralphs.

On the evening of November 15, 2003, Mr. Smith and his roommate had walked up the Sunnydale driveway to Ralphs to get groceries for dinner. They'd made their purchases and at about 7:00 p.m. were on their way back down the driveway.

A. Recount (2 of 2)

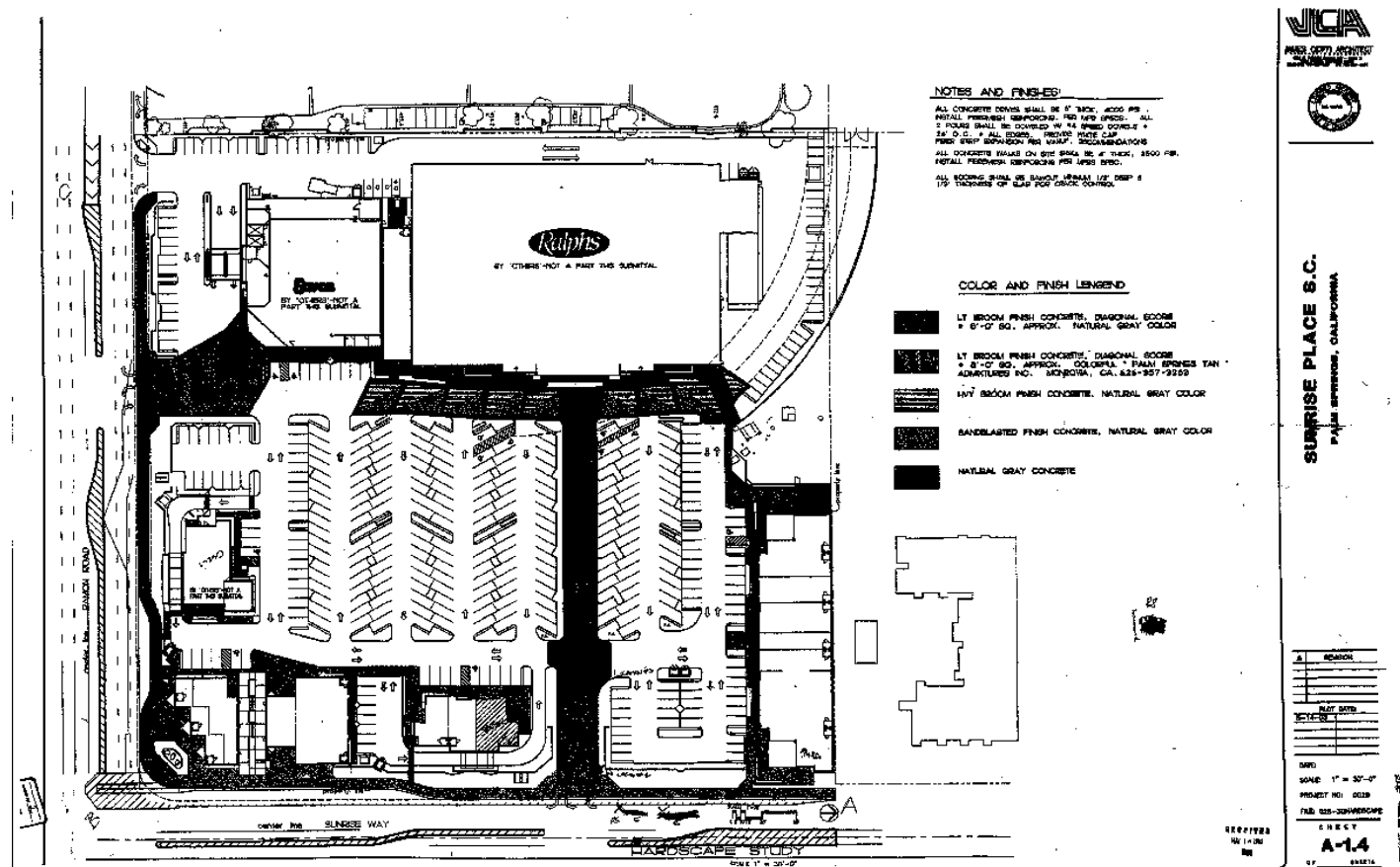
When Mr. Smith and his roommate left Ralphs, they were walking down the middle of the driveway, but as they neared the corner, they started walking kitty cornered so they could get to the sidewalk on South Sunnydale. Mr. Smith walked along the left side of the red curb to the point of the incident. He was between one and two feet from the red curb when he saw a car coming down South Sunnydale and entering the driveway. In order to avoid the oncoming car, Mr. Smith stepped up onto the red curb with his left foot and stepped down into the sand which was uneven with his right foot and he slipped and fell. Later, Mr. Smith states that he fell immediately upon stepping onto the curb.

Mr. Smith had made this trip many times before. He had been aware that there was sand on the driveway and the curb prior to this incident. The light at the corner was on.

The roommate never got up on the curb and he wasn't struck by the car. The car never stopped but continued on its way into the center.

4. THE INCIDENT

B. Site Map



5. Allegations *(1 of 2)*

- A. The Area Where Incident Occurred Was Poorly Maintained
- B. The Area Was The Only Access And Was Dangerous
- C. The Defendant Negligently Allowed The Area To Be A Trip Hazard
- D. The Defendant Failed To Make The Condition Safe For Plaintiff
- E. The Dangerous And Unsafe Condition Was Not Apparent
- F. Sand At The Area At The Time Of Incident Was A Result Of Ongoing Construction
- G. The Defendants Should Have Provided Pedestrians A Safe Access
- H. The Defendants Should Have Insured Safe Access.

5. Allegations (2 of 2)

- I. The Defendants Knew Pedestrians Were Using The Vehicular Access
- J. The Defendants Should Have Known Of Sand In The Area
- K. The Defendants Should Have Been Aware Of No Pedestrian Access
- L. South Sunnydale Way Vehicular Driveway Was Unsafe For Pedestrian Traffic
- M. The Defendants Violated The “Exits” Section Of The California Building Code
- N. The Defendant Has An Obligation To Provide A Safe Area

A. The Area Where Incident Occurred Was Poorly Maintained (1 of 7)

(From 11/2/04 Complaint)

PFCS Response:

- The area where the plaintiff was walking on November 15, 2003 was not at that time, and is not today, a pedestrian walkway. It is a vehicular entrance.
- The planter into which the plaintiff fell was never intended to be anything but a planter. It currently is a completed planter with desert bushes, palm trees and desert covering.

A. The Area Where Incident Occurred Was Poorly Maintained (2 of 7)



MP 01.003 6/5/06

A. The Area Where Incident Occurred Was Poorly Maintained (3 of 7)



MP 01.006 6/5/06

A. The Area Where Incident Occurred Was Poorly Maintained (4 of 7)

(PFCS Response Continued)

- According to the declarations of both Gary Baxter and Larry Linden, at the time of the incident, the parking lot had been completed, accepted, and Evergreen had relinquished control of it.
- According to the deposition of Alan Boller, Evergreen's superintendent, the incident occurred on a Saturday; therefore no subcontractors were working and the parking lot maintenance people would be responsible for cleaning up debris.
- T&Z Sweeping began sweeping all driveways and parking areas three days a week including blowing all sidewalks and corners of all operating stores on 8/22/03. Prior to that date, the parking lot had been turned over to the management company Tuco Management. T&Z was hired by Tuco.

A. The Area Where Incident Occurred Was Poorly Maintained (5 of 7)

(PFCS Response Continued)

- The shopping center is located in the middle of the desert where sand is a daily fact of life whether construction is going on or not.
- At the time of our inspection on June 5, 2006, long after the completion of the shopping center, the area where the incident occurred was similarly maintained, there was sand observed on the curb.

A. The Area Where Incident Occurred Was Poorly Maintained (6 of 7)

Photo taken by plaintiff approximately two days after incident.

At his deposition plaintiff marked with an 'X' the location of the incident. Notice condition of red curb and planter.



A. The Area Where Incident Occurred Was Poorly Maintained (7 of 7)



MP 01.011 6/5/06

B. The Area Was The Only Access And Was Dangerous (1 of 12)

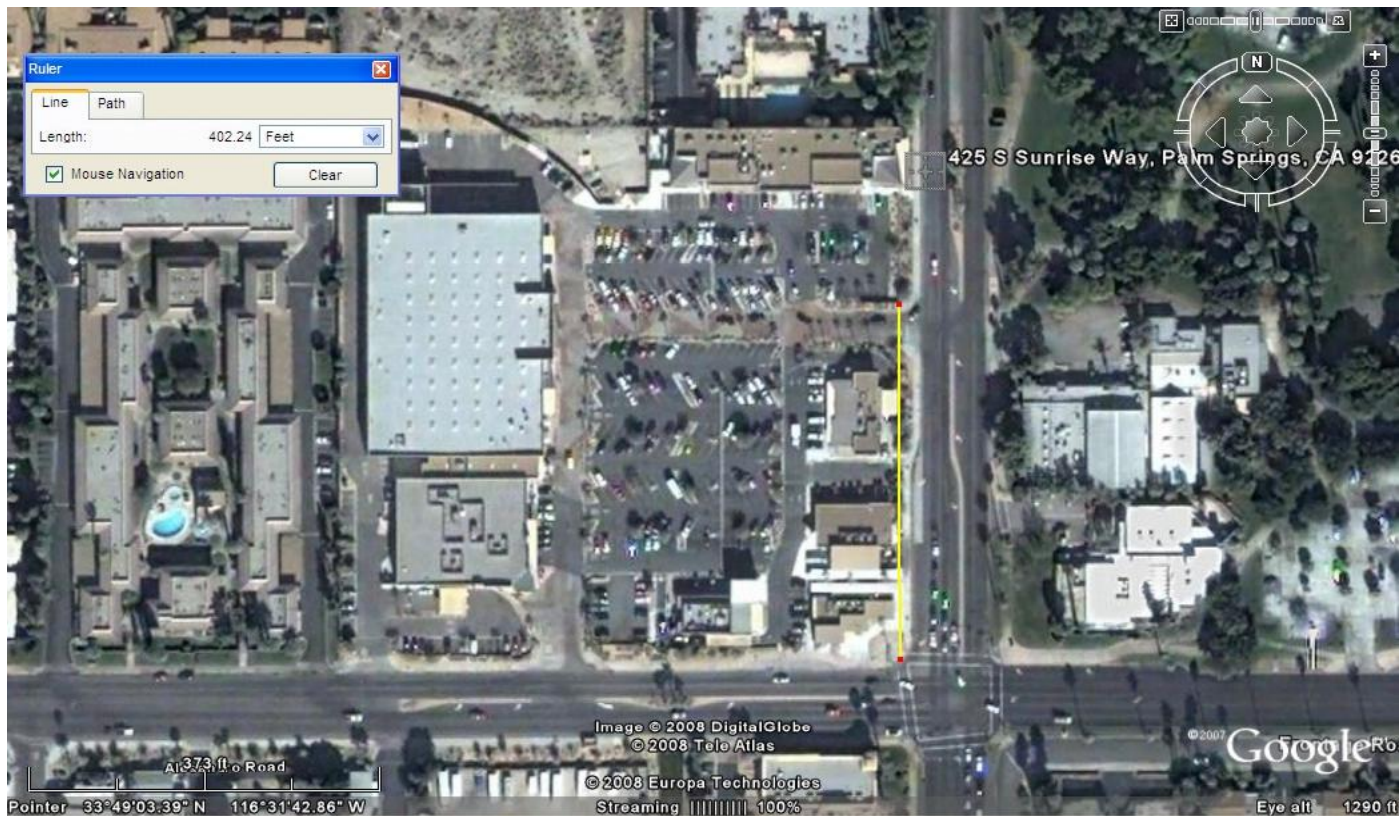
(From 11/2/04 Complaint)

“The area where the incident occurred was the only ingress and egress for both pedestrians and vehicular traffic leading to the main roadway without sufficient roadway markings, pedestrian walkways, hazard warnings and/or safety precautions.”

PFCS Response:

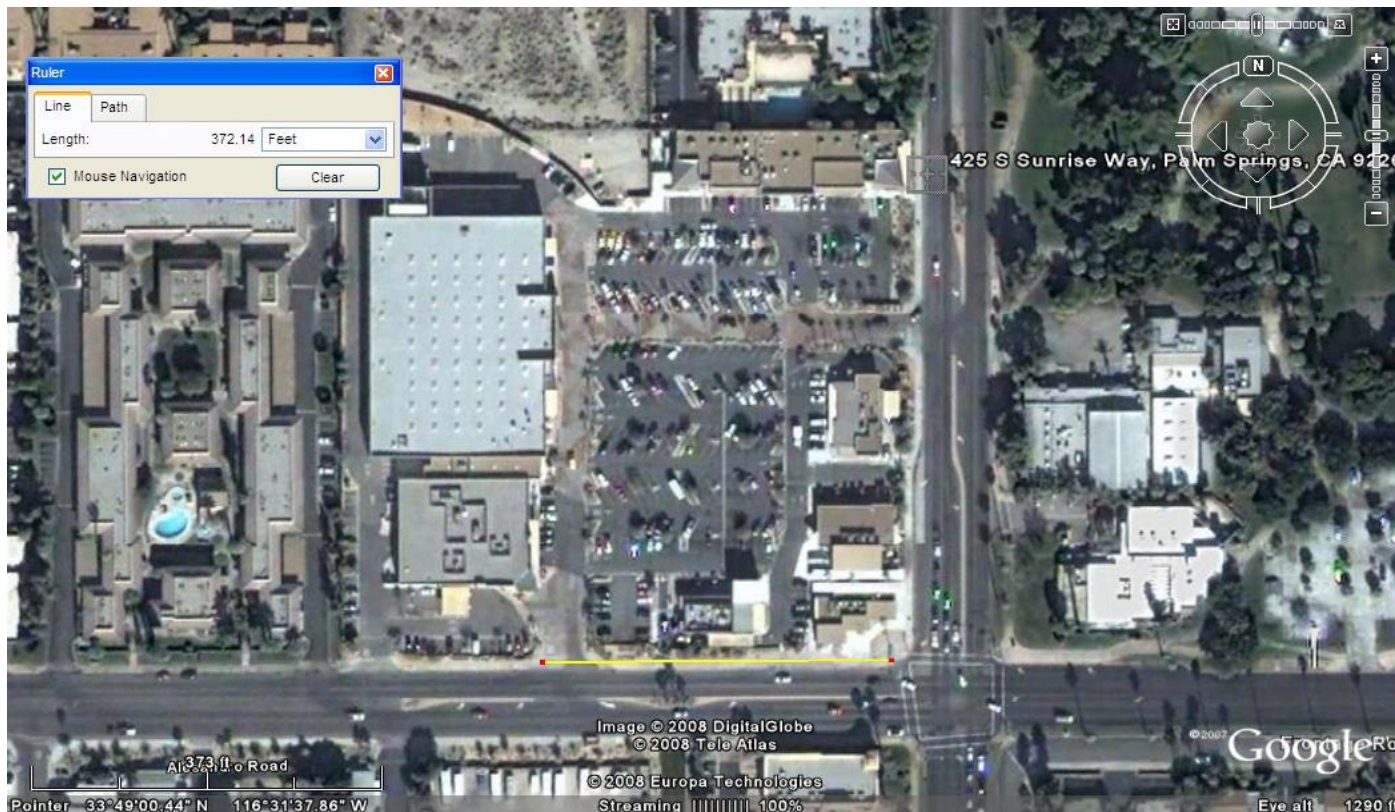
- In their depositions, Dirk Evergreen, Alan Boller, and Ralphs Store Director Bill Lowry, all state that the pedestrian walkway off Ramon Road was open when the Ralphs opened for business on July 30, 2003.
- It would have taken the plaintiff at most an additional three minutes to walk to the pedestrian entrance off Ramon Road

B. The Area Was The Only Access And Was Dangerous (2 of 12)



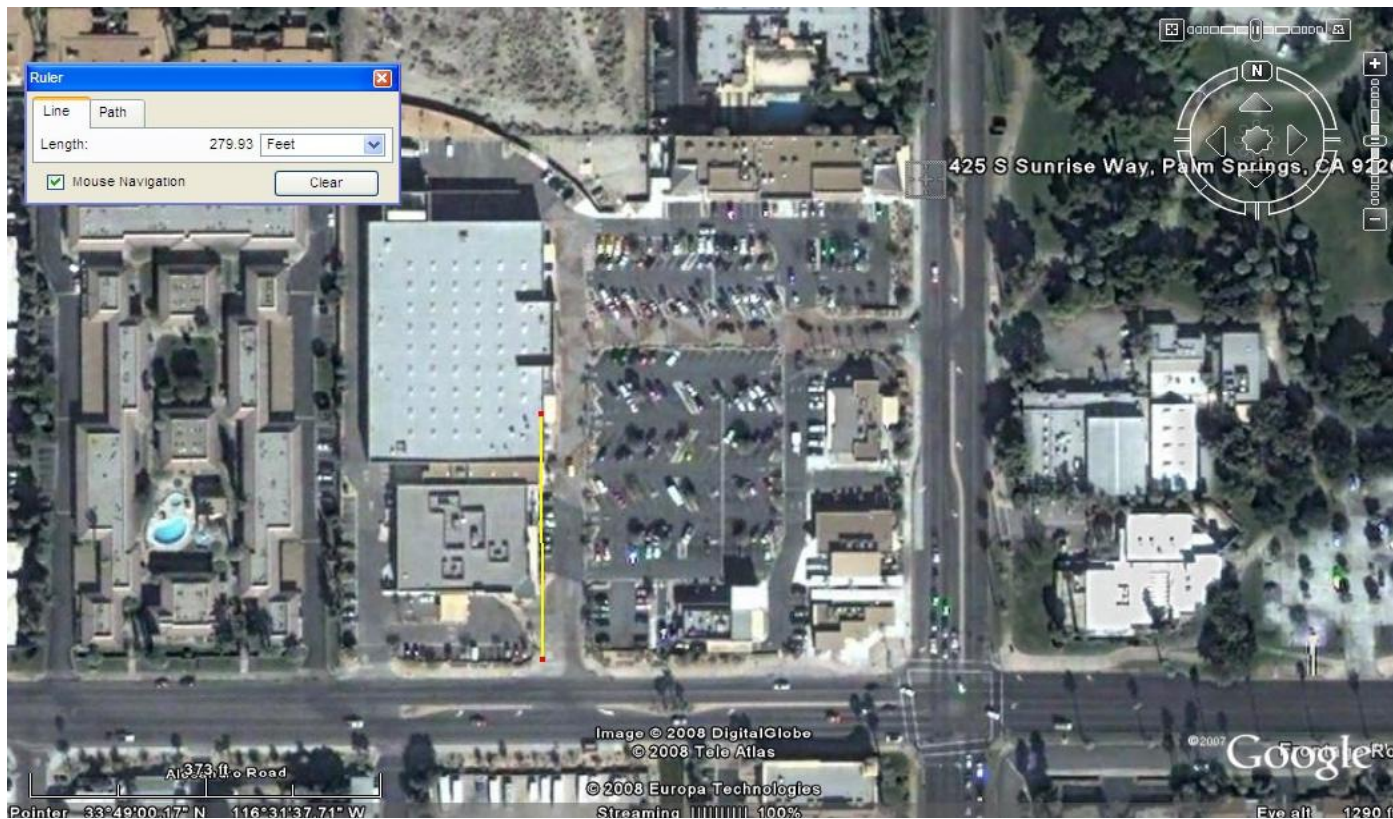
Google Earth Image: Measurement

B. The Area Was The Only Access And Was Dangerous (3 of 12)



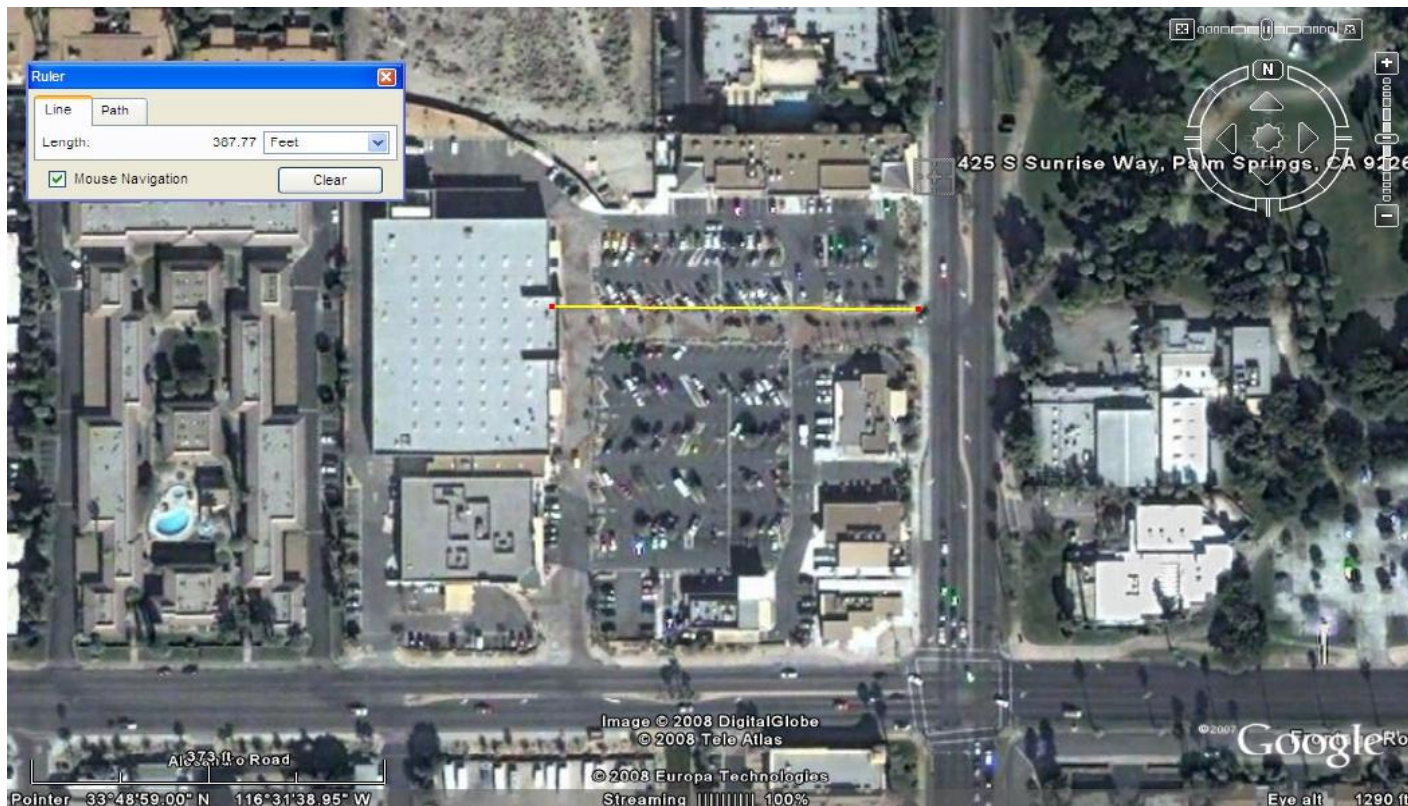
Google Earth Image: Measurement

B. The Area Was The Only Access And Was Dangerous (4 of 12)



Google Earth Image: Measurement

B. The Area Was The Only Access And Was Dangerous (5 of 12)



Google Earth Image: Measurement

B. The Area Was The Only Access And Was Dangerous (6 of 12)

- Direct walking distance is approximately 388 feet.
- Walking distance to pedestrian access is $402 + 372 + 280 = 1,054$ feet.
- Extra walking distance to pedestrian access: $(402 + 372 + 280) - 388 = 660$ feet.
- There are 5,280 feet per mile.
- Extra walking distance to pedestrian access: 660 feet divided by 5,280 feet per mile = 0.125 miles
- The average human walking speed is 3.0 miles per hour.
- Extra walking time to pedestrian access: 0.125 miles divided by 3.0 miles per hour = 0.0417 hour
- There 60 minutes per hour.
- Extra walking time to pedestrian access: 0.0417 hour times 60 minutes per hour = 2.5 minutes
- **Extra walking time to pedestrian access: Less than 3 minutes**

B. The Area Was The Only Access And Was Dangerous (7 of 12)

(PFCS Response Continued)

- The area where the plaintiff was walking on November 15, 2003 was not at that time, and is not today, a pedestrian walkway. It is a vehicular entrance.
- According to the declarations of both Gary Baxter and Larry Linden, at the time of the incident, the parking lot was completed, accepted, and Evergreen had relinquished control of it.
- PFCS confirmed with the City of Main Town Building Department on 6/5/06 that the City of Main Town would only issue a Certificate of Occupancy after it had determined that both vehicular and pedestrian access was available. The City of Main Town issued a Certificate of Occupancy to Ralphs on 7/29/03 and to Sav-On on 9/10/03.

B. The Area Was The Only Access And Was Dangerous (8 of 12)

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CERTIFICATE OF OCCUPANCY - CITY OF PALM SPRINGS

This is to certify that the building or tenant space, hereby described, has been inspected. The following occupancy group and type of construction is authorized:

ADDRESS OF PROPERTY:	<u>425 S Sunrise Way, Bldg A</u>
OCCUPANCY GROUP: <u>01</u>	TYPE OF CONSTRUCTION: <u>III N</u>
BUSINESS NAME:	<u>Ralph's Grocery, #611</u>
BUSINESS TYPE:	<u>supermarket</u>
LEGAL DESCRIPTION OF PROPERTY:	<u>APN 508-110-007</u>
BLDG PERMIT OR BUSINESS LICENSE NO. & DATE ISSUED:	<u>C4665 - 02/28/03</u>
TENANT OR OWNER OF PROPERTY:	<u>Ralph's Grocery</u>
MAILING ADDRESS:	<u>425 S Sunrise Way, Bldg A, Palm Springs, CA 92262</u>
<u><i>[Signature]</i></u> Dan Decker, Building & Safety Manager	<u><i>[Signature]</i></u> Authorized Signature: <u>Jeff Wilson</u> , Building Inspector
Date: <u>July 27, 2003</u>	

Certificate of Occupancy

B. The Area Was The Only Access And Was Dangerous (9 of 12)

CERTIFICATE OF OCCUPANCY - CITY OF PALM SPRINGS

This is to certify that the building or tenant space, hereby described, has been inspected. The following occupancy group and type of construction is authorized:

ADDRESS OF PROPERTY: 425 Sunrise Way E. Bldg "C"

OCCUPANCY GROUP: M TYPE OF CONSTRUCTION VN-FS

BUSINESS NAME: Sav-On

BUSINESS TYPE: drugstore with pharmacy

NUMBER OF UNITS _____ OCCUPANT LOAD: 485

LEGAL DESCRIPTION OF PROPERTY: APN 508-110-007

BLDG PERMIT OR BUS LICENSE NO. & DATE ISSUED: C4862 --- 3/20/03

TENANT OR OWNER OF PROPERTY: Albertsons

MAILING ADDRESS: 250 Park Center, Boise, ID

Don Duckworth Building & Safety Manager Authorized Signature: [Signature]
Don Duckworth

Date: 9/10/07 Title: Building Inspector

THIS CERTIFICATE MUST BE POSTED AND PERMANENTLY MAINTAINED IN A CONSPICUOUS PLACE

Certificate of Occupancy

B. The Area Was The Only Access And Was Dangerous (10 of 12) (PFCS Response Continued)

A review of the 1997 Uniform Building Code as incorporated into the 2001 California Building Code as adopted by the City of Main Town City Council and effective on 11/1/02 indicates that a Certificate of Occupancy would only be issued after the city inspector had assured himself that a means of egress as defined in Chapter 10 was available:

CHAPTER 10 – MEANS OF EGRESS

Section 1001 – ADMINISTRATIVE

1001.1 Scope. Every building or portion thereof shall be provided with a means of egress as required by this chapter. A means of egress is an exit system that provides a continuous, unobstructed and undiminished path of exit travel from any occupied point in a building or structure to a public way. Such means of egress system consists of three separate and distinct elements:

B. The Area Was The Only Access And Was Dangerous (11 of 12)

(PFCS Response Continued)

1. The exit access,
2. The exit, and
3. The exit discharge.

Section 1006 – THE EXIT DISCHARGE

1006.1 General. The exit discharge is that portion of the means of egress system between the exit and the public way.”

The intent of this code is so that people can exit a building during a catastrophic event such as a fire or an earthquake and has nothing to do with getting in and out of the parking lot to the curb.

B. The Area Was The Only Access And Was Dangerous (12 of 12)

(PFCS Response Continued)

- William M. Smith states in his deposition that prior to the incident he had been to the Ralphs about fifty times and that he was aware that the site was still an active construction site.
- The Developer, the Contractor and the City were all satisfied with the condition of the site. The on-going construction had nothing to do with the fall.

C. The Defendant Negligently Allowed The Area To Be A Trip Hazard (1 of 2)

(From 11/2/04 Complaint)

“The defendant negligently allowed the area to be covered with sand, dust, and construction debris so as to constitute a trip hazard.”

PFCS Response:

- The area where the plaintiff was walking on November 15, 2003 was not at that time, and is not today, a pedestrian walkway. It is a vehicular entrance.
- According to the declarations of both Gary Baxter and Larry Linden, at the time of the incident, the parking lot was completed and accepted and Evergreen had relinquished control of it.

C. The Defendant Negligently Allowed The Area To Be A Trip Hazard (2 of 2)

(PFCS Response Continued)

- T&Z Sweeping began sweeping all driveways and parking areas three days a week including blowing all sidewalks and corners of all operating stores on 8/22/03. Prior to that date the parking lot had been turned over to the management company, Tuco Management. T&Z was hired by Tuco.
- At the time of our inspection on June 5, 2006, long after the completion of the shopping center, the area where the incident occurred was similarly maintained, there was sand observed on the curb.
- The Developer, the Contractor and the City were all satisfied with the condition of the site. The on-going construction had nothing to do with the fall.

D. The Defendant Failed To Make The Condition Safe For Plaintiff *(1 of 4)*

(From 11/2/04 Complaint, PFCS Response Follows)

“The defendant failed to make the condition safe or to give notice of the dangerous and unsafe condition to plaintiff.”

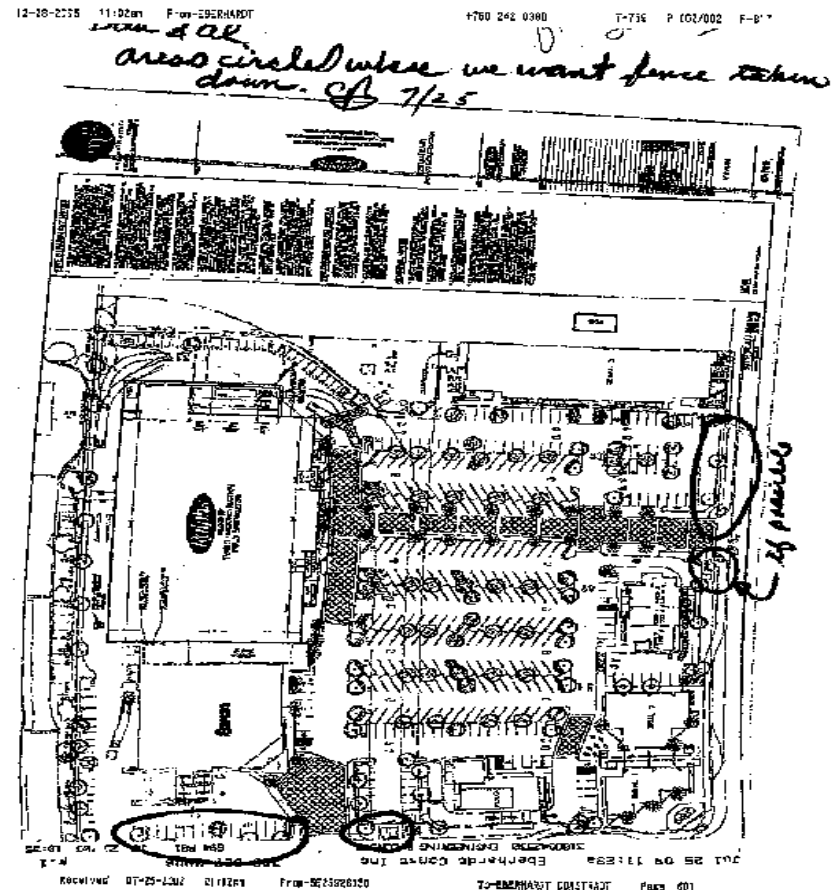
- The area where the plaintiff was walking on November 15, 2003 was not at that time, and is not today, a pedestrian walkway. It is a vehicular entrance.
- According to the declarations of both Gary Baxter and Larry Linden, at the time of the incident, the parking lot was completed, accepted, and Evergreen had relinquished control of it.
- National had installed a fence along the perimeter of the project on 1/9/03 but it had been removed in the area where the incident occurred at the request of the property manager per a fax dated July 25, 2003, which consisted of a site plan with a handwritten note, “Areas circled where we want fence taken down.” The areas circled included both sides of the driveway along South Sunnydale Way and both sides of the driveway along Ramon Drive. July 29, 2003 notation in Evergreen Construction’s Daily Log indicates, “Thompson...relocating fence.”

D. The Defendant Failed To Make The Condition Safe For Plaintiff

(2 of 4)

12-18-2025 11:02am F-on-EBERHARDT +750 242 0380 T-736 P 103/002
area circled where we want fence down. CB 7/25

Note at top says "Dan & Al, area circled where we want fence taken down."



D. The Defendant Failed To Make The Condition Safe For Plaintiff (3 of 4)

(PFCS Response Continued)

- In his deposition, Dirk Evergreen asserts that his superintendent walks the job site every day to look for safety issues and to correct them and that once a week the superintendent holds a toolbox meeting with his subcontractors to go over safety issues.
- T&Z Sweeping began sweeping all driveways and parking areas three days a week including blowing all sidewalks and corners of all operating stores on 8/22/03. Prior to that date the parking lot had been turned over to the management company Tuco Management. T&Z was hired by Tuco.

D. The Defendant Failed To Make The Condition Safe For Plaintiff (4 of 4)

(PFCS Response Continued)

- William M. Smith states in his deposition that prior to the incident he had been to the Ralphs about fifty times and that he was aware that the site was still an active construction site.
- At the time of our inspection on June 5, 2006, long after the completion of the shopping center, the area where the incident occurred was similarly maintained, there was sand observed on the curb.

E. The Dangerous And Unsafe Condition Was Not Apparent (1 of 3)

(From 11/2/04 Complaint, PFCS Response Follows)

“The dangerous and unsafe condition was not apparent or discoverable by the plaintiff through the exercise of ordinary care.”

- According to his deposition testimony, the plaintiff was well aware that the shopping center was an active construction site, that the curb was painted red, and that there was a construction trailer at the site.
- The area where the plaintiff was walking on November 15, 2003 was not at that time, and is not today, a pedestrian walkway. It is a vehicular entrance.
- According to the declarations of both Gary Baxter and Larry Linden, at the time of the incident, the parking lot was completed, accepted, and Evergreen had relinquished control of it.

E. The Dangerous And Unsafe Condition Was Not Apparent (2 of 3)

(PFCS Response Continued)

- William M. Smith states in his deposition that prior to the incident he had been to the Ralphs about fifty times and that he was aware that the site was still an active construction site. Mr. Smith also states that it was his custom to enter the center through the South Sunnydale Way driveway and, therefore, must have been aware that he was competing with vehicular traffic in that area.

E. The Dangerous And Unsafe Condition Was Not Apparent (3 of 3)

(PFCS Response Continued)

- National had installed a fence along the perimeter of the project on 1/9/03 but it had been removed in the area where the incident occurred at the request of the property manager per a fax dated July 25, 2003 which consisted of a site plan with a handwritten note, “Areas circled where we want fence taken down.” The areas circled were both sides of the driveway along South Sunnydale Way and both sides of the driveway along Ramon Drive. July 29, 2003 notation in Evergreen Construction’s Daily Log indicates, “Thompson...relocating fence.”

F. Sand At The Area At The Time Of Incident Was A Result Of Ongoing Construction

(From 11/13/07 Expert Deposition)

“Sand at the driveway and curb at the time of the incident was there as a result of ongoing and continuing construction of the Sunnydale Plaza.”

PFCS Response:

- It's a similar condition today and based on Mr. Scott's deposition it was not a dynamic in his fall. At the time of our inspection on June 5, 2006, long after the completion of the shopping center, the area where the incident occurred was similarly maintained, there was sand observed on the curb.
- See Allegations Section A, PFCS Response

G. The Defendants Should Have Provided Pedestrians A Safe Access

(From 11/13/07 Expert Deposition)

“The property owner and construction company should have provided pedestrians a safe access to the Ralphs and Sav-On stores from the Sunnydale Way entrance that was free of construction debris and sand.”

PFCS Response:

- See Allegations Section B, PFCS Response.

H. The Defendants Should Have Insured Safe Access

(From 11/13/07 Expert Deposition)

“The property owner and the construction company should have insured that pedestrians would have safe access to the Ralphs and Sav-On and they should have had a dedicated pedestrian access from the Sunnydale Way entrance into the center.”

PFCS Response:

- In their declarations both Mr. Linden and Mr. Baxter state that they never asked or expected Evergreen to provide such temporary access.
- See Allegations Sections A,B,C,D, PFCS Response.

I. The Defendants Knew Pedestrians Were Using The Vehicular Access

(From 11/13/07 Expert Deposition)

“The property owner and the construction company were on notice, by way of notice to the Ralphs’ store manager, that pedestrians were using the vehicular access and were forced to either encounter or avoid encounters with vehicles.”

PFCS Response:

- There is nothing in writing to indicate that that Evergreen Construction was ever notified of this.
- See Allegations Section B, PFCS Response.

J. The Defendants Should Have Known Of Sand In The Area

(From 11/13/07 Expert Deposition)

“The property owner, the construction company, and the property management company should have been aware that the sand that was on the curb and the driveway was there and that would have been achieved through means of inspecting the common areas of the shopping center.”

- See Allegations Sections C & D, PFCS Response.

K. The Defendants Should Have Been Aware Of No Pedestrian Access (1 of 5)

(From 11/13/07 Expert Deposition)

“The property owner, construction company, and property management company were aware that there was no pedestrian access from the Sunnydale Way side of the plaza because they were aware they were still under construction and the current pedestrian access routes were fenced off due to construction.”

PFCS Response:

- The area where the plaintiff was walking on November 15, 2003 was not at that time, and is not even now that the shopping center has been completed, a pedestrian walkway. It is a vehicular entrance. It would taken Mr. Smith, at most, an additional three minutes to walk to the pedestrian entrance off Ramon Rd. or he could have cut through the planter on South Sunnydale as people still do today. People cut across the corner and through the planter. It is not a dangerous condition.

K. The Defendants Should Have Been Aware Of No Pedestrian Access (2 of 5)



MP 01.006 6/5/06 Note footprints/ path in planter

K. The Defendants Should Have Been Aware Of No Pedestrian Access (3 of 5)



MP 01.034 6/5/06 Note footprints/path in planter.

K. The Defendants Should Have Been Aware Of No Pedestrian Access (4 of 5)

(PFCS Response Continued)

- National had installed a fence along the perimeter of the project on 1/9/03 but it had been removed in the area where the incident occurred at the request of the property manager per a fax dated July 25, 2003 with a site plan with the handwritten note, “Areas circled where we want fence taken down.”
- The areas circled were both sides of the driveway along South Sunnydale Way and both sides of the driveway along Ramon Drive. July 29, 2003 notation in Evergreen Construction’s Daily Log indicates, “Thompson...relocating fence.”

K. The Defendants Should Have Been Aware Of No Pedestrian Access (5 of 5)

(PFCS Response Continued)

- Both Larry Linden and Gary Baxter in their declarations acknowledge that it was at the request of Mr. Baxter relaying a request by Ralphs that Evergreen moved the fence.
- The pedestrian access areas on South Sunnydale, the pedestrian walkway in front of Panda Express and the pedestrian walkway by the Starbucks, were fenced off as construction was continuing in those areas. Starbucks received their Certificate of Occupancy in May 2004 and Panda Express in October 2004.

L. South Sunnydale Way Vehicular Driveway Was Unsafe For Pedestrian Traffic

(From 11/13/07 Expert Deposition)

“The South Sunnydale Way vehicular driveway was unsafe for pedestrian traffic due to sand and also because pedestrians were forced to either encounter or avoid encounter with vehicles as that was the vehicle and pedestrian access route on the date of the incident.”

- See Allegations Sections A & B, PFCS Response.

M. The Defendants Violated The “Exits” Section Of The California Building Code *(1 of 4)*

(From 11/13/07 Expert Deposition)

“That the property owner and the construction company violated the “exits” section of the California Building Code requiring unobstructed access from the building to the public way.”

PFCS Response:

- PFCS confirmed with the City of Main Town Building Department on 6/5/06 that the City of Main Town would only issue a Certificate of Occupancy after it had determined that both vehicular and pedestrian access was available. The City of Main Town issued a Certificate of Occupancy to Ralph’s on 7/29/03 and to Sav-On on 9/10/03.

M. The Defendants Violated The “Exits” Section Of The California Building Code (2 of 4)

(PFCS Response Continued)

- A review of the 1997 Uniform Building Code as incorporated into the 2001 California Building Code as adopted by the City of Main Town City Council and effective on 11/1/02 indicates that a Certificate of Occupancy would only be issued after the city inspector had assured himself that a means of egress as defined in Chapter 10 was available:

M. The Defendants Violated The “Exits” Section Of The California Building Code (3 of 4)

(PFCS Response Continued)

CHAPTER 10 – MEANS OF EGRESS

Section 1001 – ADMINISTRATIVE

1001.1 Scope. Every building or portion thereof shall be provided with a means of egress as required by this chapter. A means of egress is an exit system that provides a continuous, unobstructed and undiminished path of exit travel from any occupied point in a building or structure to a public way. Such means of egress system consists of three separate and distinct elements: 4. The exit access, 5. The exit, and, 6. The exit discharge.

M. The Defendants Violated The “Exits” Section Of The California Building Code *(4 of 4)* *(PFCS Response Continued)*

Section 1006 – THE EXIT DISCHARGE

1006.1 General. The exit discharge is that portion of the means of egress system between the exit and the public way. The intent of this code is so that people can exit a building during a catastrophic event such as a fire or an earthquake and has nothing to do with getting in and out of the parking lot to the curb.

N. The Defendant Has An Obligation To Provide A Safe Area

(From 11/13/07 Expert Deposition)

“The standard of care of the contractor should be that when a construction site is open to the public as this one was on the date of the incident, then the contractor has an obligation to provide a safe area for people accessing the site.”

- See Allegations Sections A, B, D & E, PFCS Response.

6. Conclusions

- A. Timeline
- B. Summary of Allegations
- C. Conclusion
- D. PFCS Deliverables

A. Timeline

- 10/28/02 Contract entered
- 01/09/03 Fence installed around perimeter
- 12/03/03 Evergreen begins construction
- 07/25/03 Request is made to remove sections of fence
- 07/29/03 Ralph's issued a Certificate of Occupancy
- 07/29/03 Tomlin relocated fence
- 07/30/03 Ralphs opens for business
- 08/22 /03 T&Z begins regular sweeping of driveways and areas around open businesses
- 09/10/03 Sav-On issued a Certificate of Occupancy
- 11/15/03 Mr. Smith falls at driveway planter

B. Summary of Allegations (1 of 4)

1. Evergreen failed to provide an adequate ingress / egress to Ralph's on 11/15/03.

PFCS Response:

- Evergreen had relinquished control of this area to the owner, who accepted it as completed.
- Access to the open business was available through Ramon Road.
- The location where Mr. Smith fell was not a pedestrian ingress/egress, but rather used at that time and today as vehicular access.
- The curb at the location of the fall was not at a sidewalk, but rather a planter.

B. Summary of Allegations (2 of 4)

2. Evergreen failed to maintain a safe construction site by limiting access to the accident area.

PFCS Response:

- Evergreen has a perimeter fence installed at the start of construction 1/09/03.
- The fence was not moved until requested by the owner by way of fax 7/25/03.
- Evergreen would not have removed the fence if its removal was deemed to be dangerous or unsafe by the owner, Evergreen, or the city.
- The location of the fence removal allowed for vehicular access and was never intended as a pedestrian ingress/egress.
- No safety issues were cited by the city during their inspections and they would not have issued a Certificate of Occupancy if the site was dangerous or unsafe.

B. Summary of Allegations (3 of 4)

3. Evergreen failed to provide notice to Mr. Smith of dangerous and unsafe conditions.

PFCS Response:

- There were no dangerous or unsafe conditions arising out of Evergreen's construction activities at the time of the fall.
- The area where the fall occurred had been relinquished and accepted by the owner.
- T&Z Sweeping was responsible for maintaining this location.

B. Summary of Allegations (4 of 4)

4. Evergreen failed to maintain the construction site as to allow sand and debris to create a dangerous and unsafe condition.

PFCS Response:

- There were no dangerous or unsafe conditions arising out of Evergreen's construction activities at the time of the fall.
- The area where the fall occurred had been relinquished and accepted by the owner.
- T&Z Sweeping was responsible for maintaining this location
- The project is located in the desert and sand naturally accumulates due to no action or inaction by Evergreen.

C. Conclusion *(1 of 2)*

Mr. Smith's accident had nothing to do with construction safety or the maintenance of the property.

The removal of the fence, per the fax communication of 7/25/03, was a minor change requested by the owner. A minor change request should be executed by the general contractor if no inherent danger is created based on the contract, which contains the AIA General Conditions, "changes in the defined work shall be performed under the applicable provisions of the Contract Document, and the Contractor shall proceed promptly, unless otherwise provided..." [Section 7.1.3.]. The contractor agreed to move the fence as there had already been a Certificate of Occupancy issued.

C. Conclusion *(2 of 2)*

Evergreen was not negligent. The owner didn't see the site as unsafe or dangerous, the City did not think it was unsafe or dangerous, and Evergreen did not think it was unsafe or dangerous condition.

The condition of the site was not perceived as a dangerous condition at the time of the accident. The construction performed by Evergreen was completed and accepted by the owner.

The condition of the site at the time that owner accepted the work as completed was not left or tendered in a state that was below the standard of care.

D. PFCS Deliverables

- Document Index
- List of Players
- Timeline
- Document Summary
- Site Inspection Photos & Notes
- City of Main Town Code Review
- Testimony Outline
- Power Point Presentation
- Deposition Summary of William M. Smith
- Deposition Summary of Dirk T. Evergreen
- Deposition Summary of Alan Boller
- Deposition Summary of Flora L. Grattani
- Deposition Summary of Bill Lowry
- Deposition Summary of Karyn Jackson

Smith v. SP Sunnydale

P e t e F o w l e r
CONSTRUCTION
S e r v i c e s , I n c .

The End