



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
LANSING

ANDREW S. LEVIN
ACTING DIRECTOR

BARRIER FREE DESIGN BOARD
BUREAU OF CONSTRUCTION CODES
Conference Room 3
2501 Woodlake Circle
Okemos, Michigan 48864

AGENDA

March 11, 2011

9:30 a.m.

1. **Call to Order and Determination of Quorum**
2. **Agenda** (pages 1-2)
3. **Approval of Minutes** (pages 3-6)
4. **Exception Applications**
 - 01) 96157, PNC Bank – Kent (pages 7-20)
 - 02) 96361, Repair Clinic Inc – Wayne (pages 21-26)
 - 03) 96420, Marble and Granite Works LLC (pages 27-34)
5. **Other Business**
6. **Remands**
7. **Staff Report**
8. **Public Comment**

Providing for Michigan's Safety in the Built Environment

BUREAU OF CONSTRUCTION CODES
P.O. BOX 30254 • LANSING, MICHIGAN 48909
Telephone (517) 241-9328 • Fax (517) 241-9308
www.michigan.gov/dleg

DELEG is an equal opportunity employer/program.
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

9. Next Meeting – May 12, 2011

10. Adjournment

“The meeting site is accessible, including handicapped parking. Individuals attending the meetings are requested to refrain from using heavily scented personal care products in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations in order to participate in the meeting should contact Margarita Torres at (517) 241-9328 at least 10 working days before the event.”



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BUREAU OF CONSTRUCTION CODES
Conference Room 3
2501 Woodlake Circle
Okemos, Michigan 48864

MINUTES
January 14, 2011

MEMBERS PRESENT

Mr. Roger Donaldson
Mr. Daryl Domke
Ms. Karla Hudson
Mr. James McGaugh
Mr. Timothy McGladdery

MEMBERS ABSENT

Mr. Brett Holt
Mr. Donald Link

MICHIGAN DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
PERSONNEL ATTENDING

Mr. Todd Cordill, Chief, Plan Review Division
Mr. George Herrity, Assistant Chief, Plan Review Division
Ms. Usha Menon, Plan Reviewer
Ms. Margarita Torres, BFD Secretary, Plan Review Division

OTHERS IN ATTENDANCE

None

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1. **CALL TO ORDER AND DETERMINATION OF QUORUM**

The meeting was called to order at 9:30 a.m. by Chairperson Donaldson. A quorum was determined present at that time.

2. **MODIFICATIONS TO AGENDA**

A **MOTION** was made by Board Member McGladdery and supported by Board Member Domke to approve the agenda for the March 11, 2011 Board meeting. **MOTION CARRIED.**

3. **APPROVAL OF MINUTES**

A **MOTION** was made by Board Member Domke and supported by Board Member McGaugh to approve the minutes of the January 14, 2011 meeting. **MOTION CARRIED.**

4. **TABLED ITEMS**

None

5. **EXCEPTION APPLICATIONS**

- 01) 95089, Park Bar, The – Wayne
- 02) 95299, Grand Pines Assisted Living – Ottawa
- 03) 95679, German Park – Washtenaw
- 04) 95681, Kennedy Community Development – Wayne
- 05) 95721, Lucky's Pub & Grille – Oakland
- 06) 95980, Zerilli Studio – Oakland
- 07) 96002, Jefferson Middle School

A **MOTION** was made by Board Member McGladdery and supported by Board Member Hudson to adopt the reports of the Administrative Law Judge and the recommended decisions for the cases listed above. The Board acknowledged the receipt of all materials submitted by the applicant. **MOTION CARRIED.**

6. **OTHER BUSINESS**

Election of Board Officers:

A **MOTION** was made by Board Member McGladdery and supported by Board Member Hudson to re-elect Board Member Donaldson as Chair of the Board and to re-elect Board Member Link as Vice Chair. **MOTION CARRIED.**

Board Member McGladdery had a question for BCC Staff regarding access to stages and elevator platforms. Could this be a proposed change for Michigan the next time around?

Ms. Menon responded that since these are performance areas, you could not because there may be a disabled performer or a singer who might not be able to get into the stage.

Mr. Cordill commented that the default position would be to deny it under the code, but the building owner has the right to file for an exception.

7. **REMANDS**

None

8. **STAFF REPORT**

Division Chief Todd Cordill reported on the following:

We learned yesterday that Elaine Falsik's husband passed away. Elaine used to be the secretary for the barrier free design board about five/ six years ago. She came to us from the bureau of fire safety and is now with the bureau of fire services. Our prayers and our thoughts are with her.

Our Deputy Director, Beth Aben, has accepted the early retirement offer that came from civil service. She was granted an extension to stay here until the end of March. She is helping with the transitions to whomever becomes the next deputy director of the bureau. Normally she's at our meetings but she is not here today because she has a number of other things going on.

Staff Report Continued

The board may have noticed the new carpet being installed in the building. Carpet installation was occurring at the second floor in the plan review area. We have to move all of our file cabinets out of our cubicles and then move them back. Please bear with division staff if we don't have some rapid responses for the next few weeks.

The 2009 Michigan Uniform Energy Code, 2009 Michigan Building Code, 2009 Residential Code and 2009 Rehabilitation Code for Existing Buildings all become effective March 9, 2011. I have requested copies of the building and rehabilitation codes for board members because these apply to barrier free requirements. Reference standard 2003 ICC ANSI A117.1 is still referenced in the 2009 building code. The energy code is a two part code; the residential portion is based on the International Energy Conservation Code. The ANSI/ASHRAE/IESNA Standard 90.1 - 2007 edition is used for everything else.

9. NEXT MEETING

March 11, 2011

10. ADJOURNMENT

A **MOTION** was made by Board Member McGladdery and supported by Board Member McGaugh to adjourn. **MOTION CARRIED.**

The meeting adjourned at approximately 9:50 a.m.

Approved: _____
Roger Donaldson, Chairperson

Date: _____

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of	Docket No.	2010-1200
PNC Bank	Agency No.	96157
3415 Lake Eastbrook	Agency:	Bureau of Construction Codes
Grand Rapids, MI, Applicant	Case Type:	Barrier Free Design Exception Request

I. EXCEPTION APPLICATIONS
01. 96157

Issued and entered
this 20th day of January, 2011
by C. David Jones
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq.*; 1972 PA 230, as amended, MCL 125.1502 *et seq.*; and 1969 PA 306, as amended, MCL 24.101 *et seq.*

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on January 12, 2011, in Lansing, Michigan. Present were Van Hunsberger, architect representing the applicant and Usha Menon, representing the Plan Review Division.

The following exhibits were admitted into evidence:

Applicant's Exhibit 1: Architectural Plans.

Applicant's Exhibit 2: 7-Photographs.

Mr. Hunsberger testified.

ISSUE

Should the Board grant the applicant an exception from Section 404.2.5 of 2003 ICC/ANSI A 117.1?

FINDING OF FACT

1. The applicant operates a bank at 3415 Lake Eastbrook, Grand Rapids. On an average day, it has about 5 or 6 employees.
2. The building was constructed during the 1970's. It has not previously been significantly remodeled. It has consistently been used as a bank.
3. The applicant plans to do alterations to the building for a total cost of about \$250,000. The alterations include construction of an accessible bathroom, construction of a barrier free teller window, change of the ceiling tiles, and installation of new lighting. The construction has not been started yet.
4. The building has about 2238 square feet. Adjacent to the building is a drive-through with access to tellers. The building has a set of doors on the south and set on the west. Each set consists of two outside doors and two inside doors.
5. Both the south and west doors have the following features: The outside doors are a total of about six feet wide, as are the inside doors. The distance between the outside doors and inside doors is six feet, four inches. The outside and inside doors are part of a vestibule, about ten feet wide. A ramp from the parking lot leads to each set of doors.
6. There is handicapped parking near the south, but not the west doors.
7. The south, but not the west doors have automatic door openers (paddles).
8. Both sets of doors are glass, as are the building walls, and the doors and walls are tied into each other.

9. To achieve compliance, the applicant would have to reposition the doors so the outside doors are seven feet from the inside doors. This would require moving the vestibule further into the building, and tearing into glass walls. The cost would be about \$10,000 to \$12,000.

10. Instead of repositioning the doors, the applicant proposes simply to add automatic door openers (paddles) on the west doors similar to the openers on the south doors. The cost is not indicated on record. The applicant argued that this would make it easier for handicapped to enter and exit the building than the wider (seven foot) space between the doors.

CONCLUSION OF LAW

The stated purpose of 1966 PA 1, concerning barrier free design requirements, is “. . . to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public; . . .” 1966 PA 1, Preamble. The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated period of time and upon stated conditions, and require alternatives when exceptions are granted. 1966 PA 1, as amended, Section 5; MCL 125.1355.

An exception request is granted only when the applicant proves compelling need. MCL 125.11355a(1). The statute defines compelling need as including, but not limited to, one or more of the following: structural limitations, site limitations, economic limitations, technological limitations, jurisdictional conflicts and historical structures, under conditions prescribed by rule of the Construction Code Commission. MCL 125.1355a(2). The statute authorizes the Board to find compelling need if the literal application of the barrier free design requirement would result in exceptional, practical difficulty to the applicant. MCL 125.1355a(1). Furthermore, a promulgated rule provides further factors to be considered in determining whether compelling need has been demonstrated including aspects that do comply, structural limitations, and feasibility of alternatives. 1988 AACCS, R 125.1014(2)(m,t,v).

The applicant seeks an exception for the following section of 2003 ICC/ANSI

A117.1:

404.2.5 Two Doors in a Series. Distance between two hinged doors or pivoted doors in a series shall be at least 48 inches (1220 mm) minimum plus the width of any door swinging into the space. The space between the doors shall provide a turning space complying with Section 304.

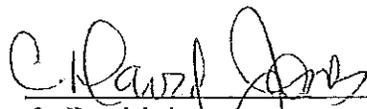
The applicant has shown compelling need for an exception. The applicant plans to construct an accessible bathroom and a barrier free teller window. The doors and walls are tied into each other, so moving the doors would require additional construction of the walls. The use of automatic door openers would make the building accessible and is a feasible alternative.

RECOMMENDED DECISION

I recommend the Board grant the applicant an exception from Section 404.2.5 of the 2003 ICC/ANSI. A 117.1

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

A party may file comments, clarifications or objections to this Report, including written arguments with the Bureau of Construction Codes, P. O. Box 30254, Lansing, Michigan 48909; Attention: Todd Cordill.



C. David Jones
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 20th day of January, 2011.



Shirley Daous
State Office of Administrative Hearings and Rules

Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Mark O Fleet
City of Grand Rapids
1120 Monroe
Grand Rapids, MI 49503

Van Hunsberger
Van Architects, PLLC
2008 Hogback Road, Suite 6
Ann Arbor, MI 48105

VANARCHITECTS PLLC • AIA, NCARB
2008 HOGBACK ROAD, SUITE 6 • ANN ARBOR, MICHIGAN 48105
734-971-4000 p • 734-971-9450 f • vanarch@aol.com

October 25, 2010

Usha Menon
Michigan Department of Energy, Labor & Economic Growth
Bureau of Construction Codes / Plan Review Division
P.O. Box 30255, Lansing, MI
48909

RE: Grand Rapids PNC Bank, vestibule dimension exception

Usha,

Attached is the application for a barrier free rule exception plus supporting drawings and photos of the Grand Rapids PNC Bank vestibule we previously discussed on the phone.

Just to recap the situation, the existing bank will be undergoing some interior remodeling but will not be changing use or building size. There are currently (2) entry vestibules, one on the south side and one on the west side. Both vestibules currently measure 6'-4" between sets of doors. The south vestibule has an interior/exterior automatic push button "paddle" entry system to facilitate easy barrier free access. This vestibule is the closest to the (2) barrier free parking spaces to the south. The adjoining sidewalk has a barrier free ramp/curb cut, which meets current code.

In lieu of changing the physical size of the existing vestibules to the required 7'-0" between sets of doors, which would impact other adjoining existing office glazing systems and be of sizeable cost, we are proposing that the existing push button paddle system remain as is and that we would install a similar system on the west vestibule doors to make both entrances easily accessible. Thus providing the building with a 100% accessible entry condition.

If you have any questions regarding this request please do not hesitate to give me a call.

Sincerely,



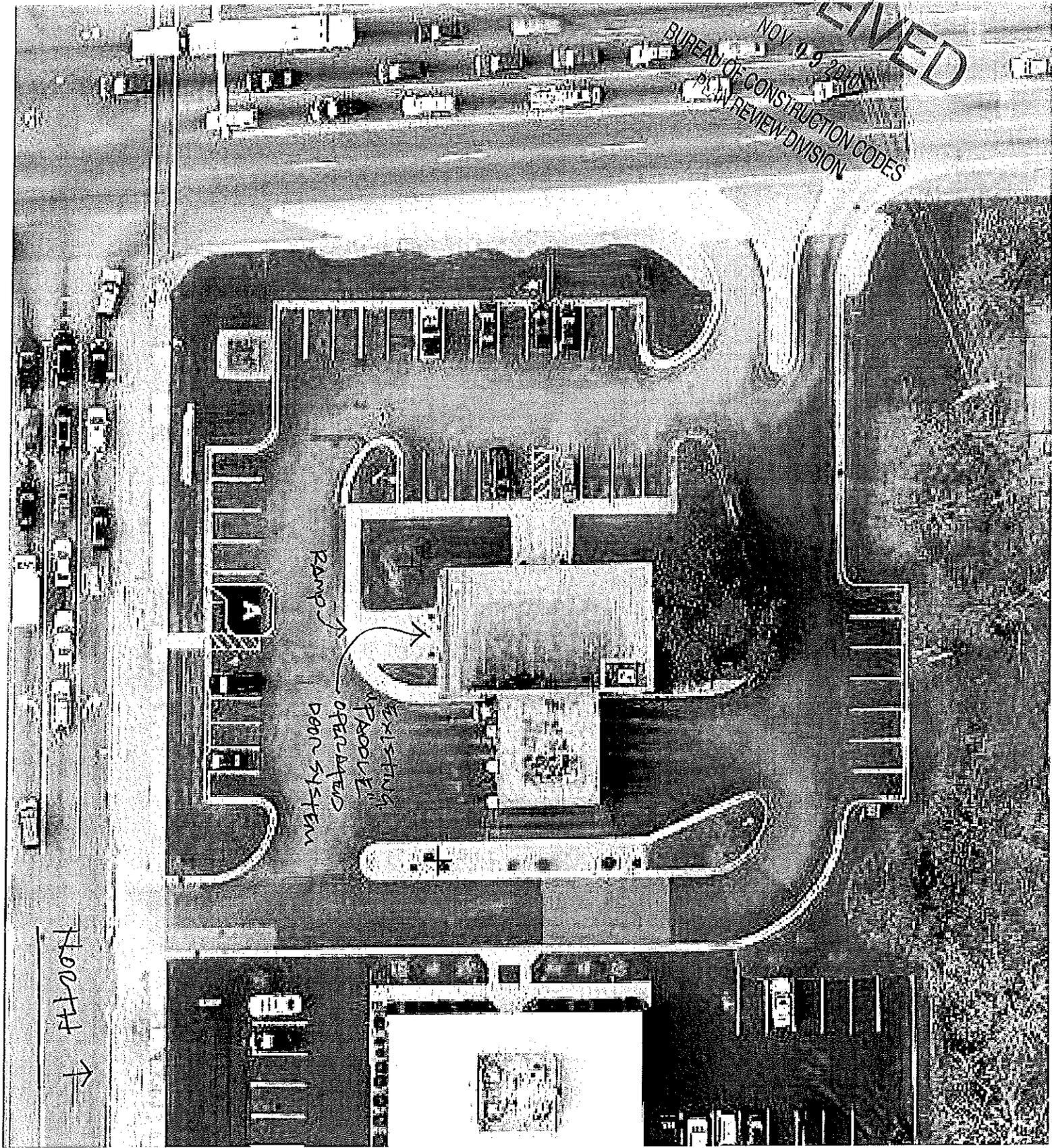
Van Hunsberger AIA, NCARB
VanArchitects PLLC

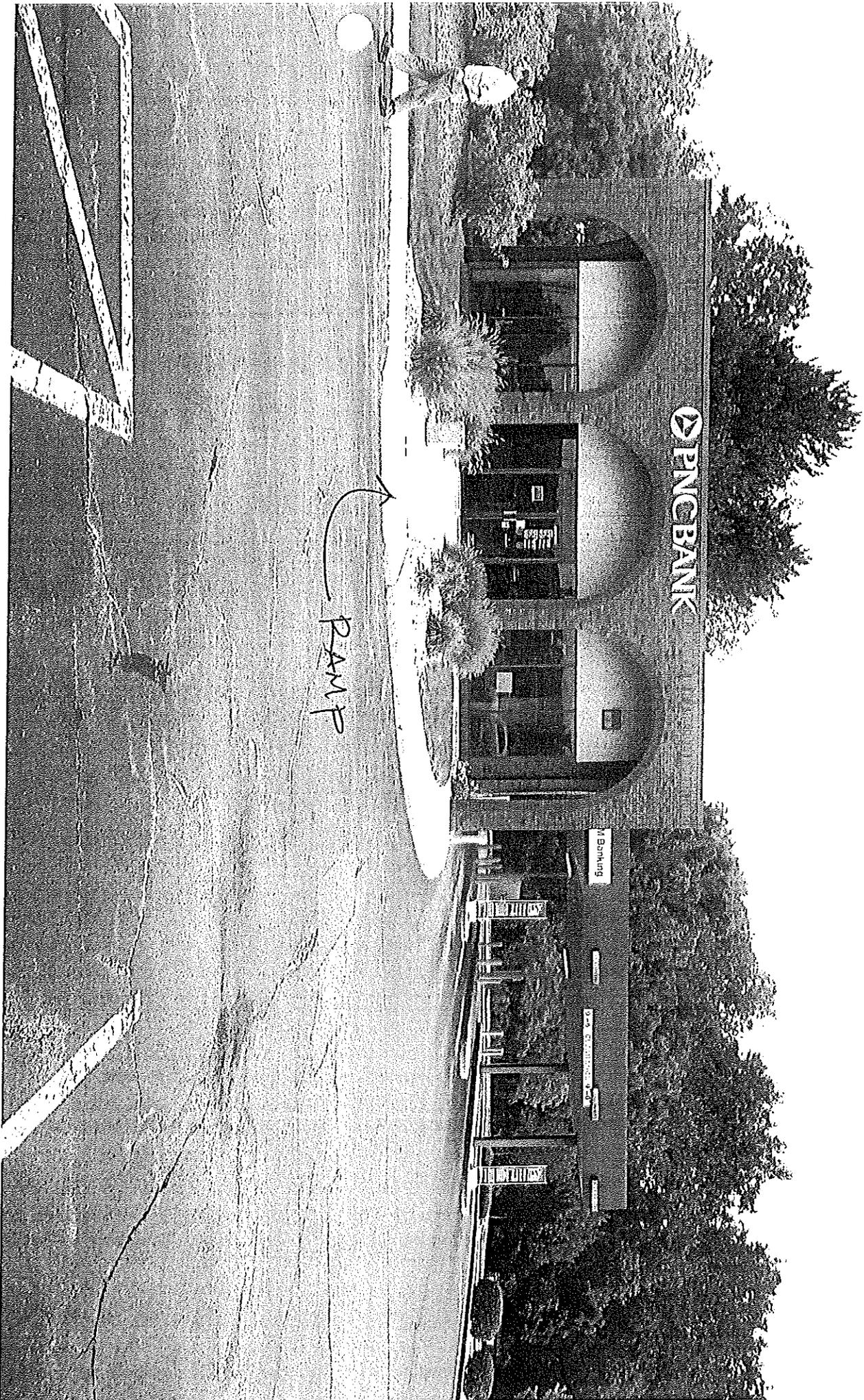
RECEIVED

NOV 9 9 2012
BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

EXISTING
POOL
OPERATED
DEON SYSTEM
RAMP

Hwy 77





PNC BANK

PAMP

EXISTING
"PADLOCK"
DOOR SYSTEM.





Private
Monday 9:00-5:00
Friday 9:00-5:00
Saturday 9:00-5:00
Sunday 9:00-5:00

CAUTION
GLASS



PNC BANK

Virtual Wallet
Anytime.

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to your money
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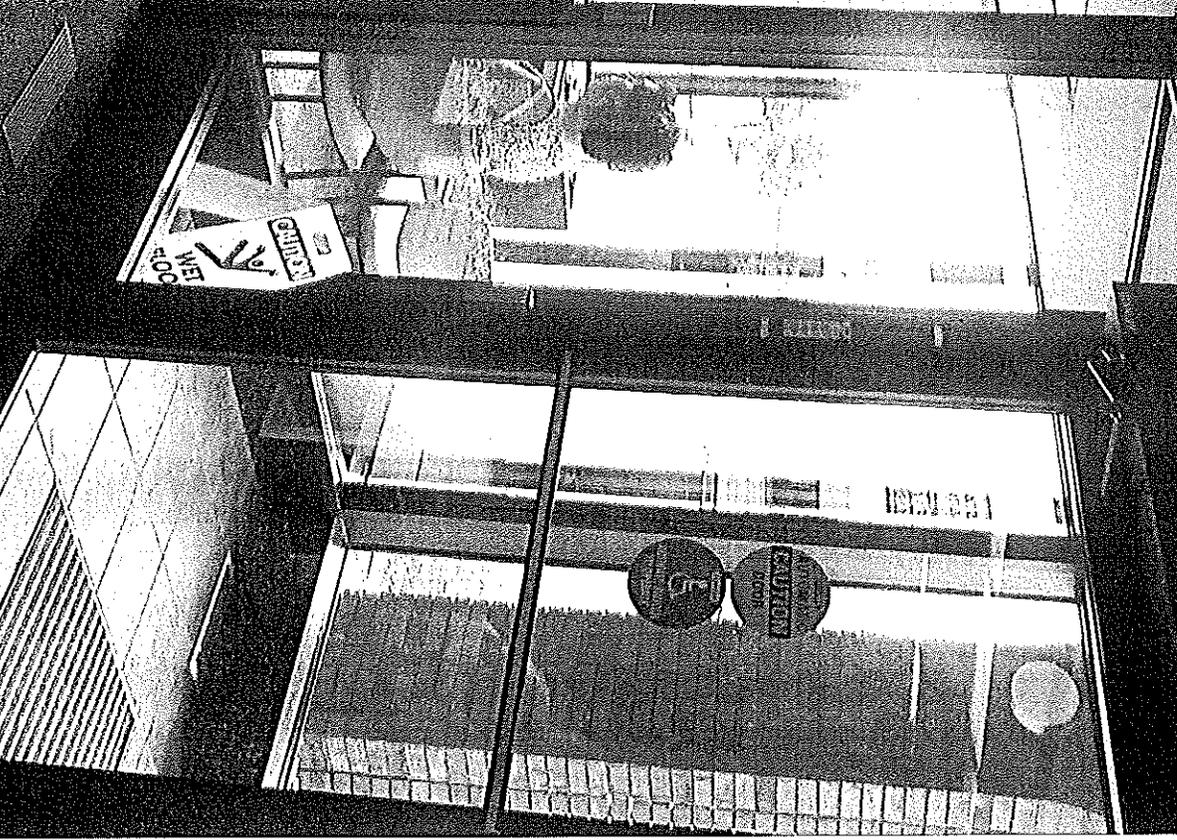


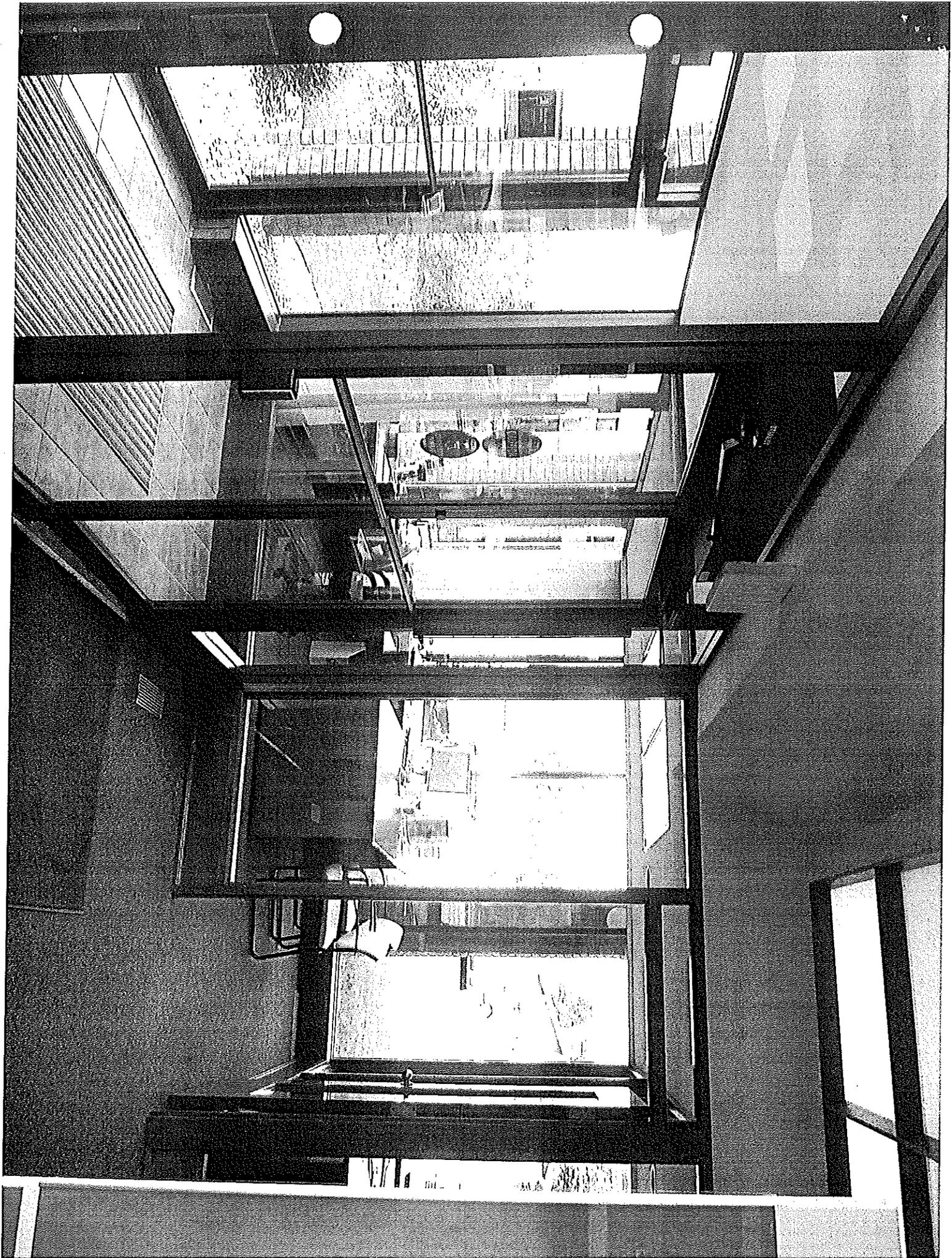
100% MET

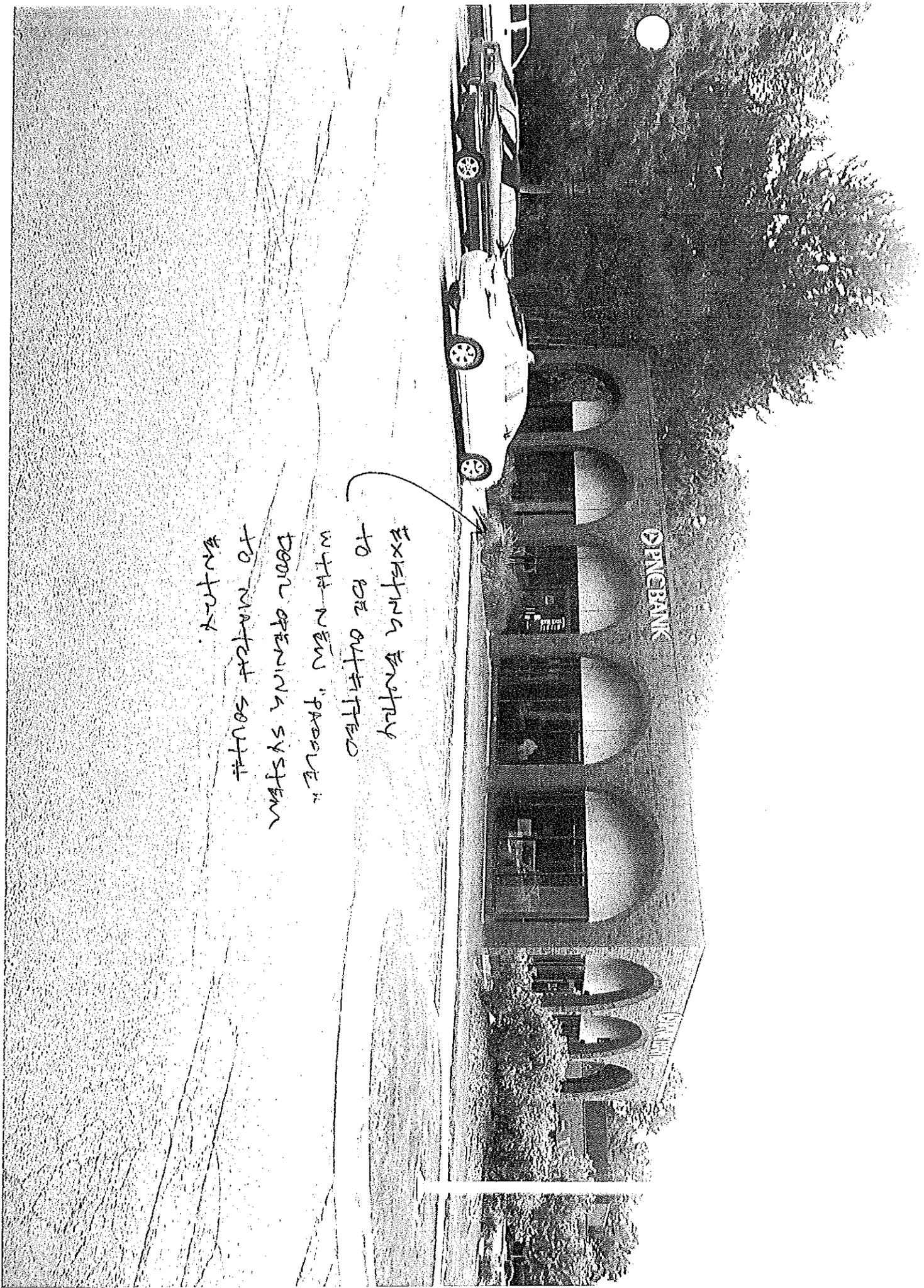
RENTING

EXTRA

EXTRA







EXISTING ENTRY
 TO BE OUTFITTED
 WITH NEW "PROTECTA"
 DOOR OPENING SYSTEM
 TO MATCH SOUTH
 ENTRY.

96157

Application for Barrier Free Design Rule Ex
 Michigan Department of Energy, Labor & Economic Affairs
 Bureau of Construction Codes / Plan Review
 P.O. Box 30255, Lansing, MI 48909
 517-241-9328
 www.michigan.gov/bcc

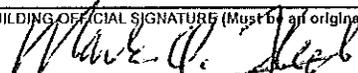
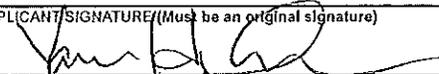
Agency Use Only

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
---	---

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME		STREET / SITE ADDRESS		
PNC Bank		3415 Lake Eastbrook, Grand Rapids, MI 49546		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED			COUNTY	
<input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: Grand Rapids			Kent	
Estimated Project Cost \$ 250,000.00		Estimated Cost of Compliance \$ 3,500.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use			Building Permit / File Number <u>Pending</u>	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP	CONSTRUCTION TYPE
			B	5B
Project Does Not Comply With Barrier Free Design Requirements As Follows:				
Michigan Building Code Section(s)				
1008.1.7 - door arrangement, 1105.1 - 60% required accessible entrance				
Reason for Non-Compliance				
Existing (2) vestibules measure 6'-4" between pairs of doors. (1) vestibule currently has paddle operated door openers as described on the attached drawing. We are proposing to outfit the other vestibule with the same system.				
ENFORCING AGENCY		BUILDING OFFICIAL NAME		REGISTRATION NUMBER
City of Grand Rapids		Mark O. Fleet		002162
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
1120 Monroe Ave	Grand Rapids	MI	49503	(616) 456-3487
BUILDING OFFICIAL SIGNATURE (Must be an original signature)		DATE	E-MAIL ADDRESS	FAX NUMBER (Include Area Code)
		11/1/10	mffleet@gcity.us	(616) 456-4199
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME		LICENSED INDIVIDUAL		MICHIGAN LICENSE NUMBER
VanArchitects PLLC		Van Hunsberger		1301036312
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
2008 Hogback Rd, Suite 6	Ann Arbor	MI	48105	(734) 971-4000
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME		APPLICANT NAME		FEIN OR SS NO.* (Required)
VanArchitects PLLC		Van Hunsberger		
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
2008 Hogback Rd, Suite 6	Ann Arbor	MI	48105	(734) 971-4000
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code)
				(734) 971-9450
APPLICANT SIGNATURE (Must be an original signature)			DATE	
			10-25-10	

*This information is confidential. Disclosure of confidential information is protected by the Federal Privacy Act.

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Docket No. 2010-1291

Repair Clinic, Inc.
48600 Michigan Avenue
Canton, MI,
Applicant

Agency No. 96361

Agency: Bureau of Construction Codes

Case Type: Barrier Free Design Exception
Request

Issued and entered
this 26th day of January, 2011
by Renée A. Ozburn
Administrative Law Judge

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended, MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*. The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code.

A hearing was held on January 24, 2011, in Lansing, Michigan. Kimberly Messer appeared on behalf of the Applicant Repair Clinic, Inc. Usha Menon appeared on behalf of the Plan Review Division of the Bureau of Construction Codes.

ISSUE

Whether the Applicant should be granted an exception from the 2006 Michigan Building Code, Section 1104.4.

FINDINGS OF FACT

1. On November 24, 2010, Repair Clinic, Inc. submitted an application for an exception to requirements for elevator access to a new 14,000 sq. ft. mezzanine level being built within an existing 48,000 sq. ft. warehouse. The warehouse is a distribution facility that performs picking, packing, shipping and receiving functions.
2. Approximately 8 out of 30 warehouse, and 133 total employees, will be assigned to the mezzanine level performing the same job functions as are performed on the first floor.
3. All cubicle and office spaces are located on the first level or the fully accessible second story.
4. The public will not be using the mezzanine level.
5. The existing warehouse was built in 2004. There is a 12' 1" height between the first level and the new mezzanine level. Construction has begun and it is approximately 3% to 5% completed. The total project cost is estimated at \$200,000.00. To add an elevator or lift to the mezzanine level will cost approximately \$40,000 to \$60,000.
6. If an employee assigned to the mezzanine level becomes temporarily disabled, he or she can be assigned to job functions on the first floor.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when compelling need is demonstrated by the Applicant. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules which have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

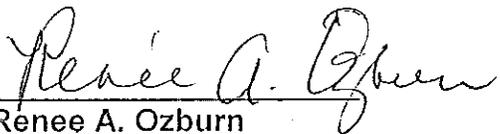
The Applicant has shown that adding an elevator or lift for purposes of access to the new mezzanine would be extremely costly and unnecessary given the alternatives available. The new area will only be used by 8 employees out of 30 employees working in the warehouse. Further, all job functions that will be performed on the mezzanine level are also performed on the first level which is compliant. Employees assigned to work on the mezzanine level, who become temporarily disabled, can be assigned to perform the same job functions on the first floor. Therefore, the Applicant has shown a compelling need and reasonable alternatives justifying an exception to the requirements of 2006 Michigan Building Code Section 1104.4.

RECOMMENDED DECISION

I recommend the Board grant the Applicant's request for exception from 2006 Michigan Building Code, Section 1104.4.

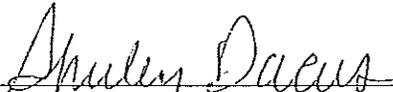
As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.


Renee A. Ozburn
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 26th day of January, 2011.



Shirley Dacus
State Office of Administrative Hearings and Rules

Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

John Weyer
Canton Township
1150 S. Canton Center
Canton, MI 48188

Kimberly Messer
Repair Clinic, Inc.
48600 Michigan Avenue
Canton, MI 48188

Application for Barrier Free Design Rule Exception
 Michigan Department of Energy, Labor & Economic Growth
 Bureau of Construction Codes / Plan Review Division
 P.O. Box 30255, Lansing, MI 48909
 517-241-9328
 www.michigan.gov/bcc

96 361

Trsn Info: 133 16331476-1 11/24/10
 Chrg: 22502 Amt: 1300.00
 ID: TO-PAYR CLINIC.COM

Application Fee: \$300.00

Authority: 1965 PA 1 Completion: Mandatory Penalty: Exception will not be granted	DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
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The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME Repair Clinic.com Inc			STREET / SITE ADDRESS 48600 Michigan Ave	
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Township Of: Canton			COUNTY Wayne	
Estimated Project Cost \$ 200,000			Estimated Cost of Compliance \$ 40,000	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use			Building Permit / File Number	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP Factory	CONSTRUCTION TYPE IIB
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) No accessible route to mezzanine Section No. 1104.4 Reason for Non-Compliance No elevator or lift provided.				
ENFORCING AGENCY Canton Township		BUILDING OFFICIAL NAME John Weyer		REGISTRATION NUMBER 001229
ADDRESS 1150 S. Canton Center	CITY Canton	STATE MI	ZIP CODE 48188	TELEPHONE NUMBER (Include Area Code) 734-394-5200
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>John Weyer</i>		DATE 11/23/2010	E-MAIL ADDRESS jweyer@canton-mi.org	FAX NUMBER (Include Area Code) 734-394-5166
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME Davis and Davis		LICENSED INDIVIDUAL Chuck Brewer		MICHIGAN LICENSE NUMBER 14133
ADDRESS 30500 Northwestern Hwy Suite 311	CITY Farmington Hills	STATE MI	ZIP CODE 48334	TELEPHONE NUMBER (Include Area Code) 248-855-7040
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME RepairClinic.com		APPLICANT NAME Kimberly Messer		FEIN OR SS NO.* (Required)
ADDRESS 48600 Michigan Ave	CITY Canton	STATE MI	ZIP CODE 48188	TELEPHONE NUMBER (Include Area Code) 734-495-3079
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code) 734-495-3150
APPLICANT SIGNATURE (Must be an original signature) <i>Kimberly D. Messer</i>			DATE 11/24/10	

*This information is confidential. Disclosure of confidential information is protected by the Federal Privacy Act.

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Docket No. 2011-7

Marble and Granite Works, LLC
7171 North Haggerty Road
Canton Township, MI,
Applicant

Agency No. 96420

Agency: Bureau of Construction Codes

Case Type: Barrier Free Design
Exception Request

Issued and entered
this 26th day of January, 2011
by Renée A. Ozburn
Administrative Law Judge

JAN 27 2011
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
LANSING, MICHIGAN

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended, MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*. The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code.

A hearing was held on January 24, 2011, in Lansing, Michigan. Donald Barry and Greg Seward appeared on behalf of the Applicant Marble and Granite Works, LLC. Usha Menon appeared on behalf of the Plan Review Division of the Bureau of Construction Codes.

ISSUE

Whether the Applicant should be granted an exception from 2006 Michigan Building Code, Section 1104.4.

FINDINGS OF FACT

1. On November 29, 2010, Marble and Granite Works, LLC, submitted an application for an exception to requirements for elevator access to a new 4,900 sq. ft. mezzanine level being built within an existing 47,000 sq. ft. building. The renovated building is to become a new store and showroom for custom countertops offered through Lowes. The largest portion of the building is being used for materials and storage. There is a 7,500 sq. ft. area on the first level that will serve as a showroom. This showroom is the only area that will be accessible to customers.
2. The existing building, which previously was used as a gym, was built in or around 1989. The cost of converting it to use as a showroom and store is \$1,750,000.
3. Three small offices and a layout space are planned for the mezzanine area. This area will be used by approximately 5 to 10 employees who are responsible for doing field measurements in customer homes and then completing layouts back in the store. There is also layout space on the first level. All field staff are required to be able-bodied. Any staff who are temporarily disabled can perform their job functions on the first floor.

4. The floor height from the first floor to the mezzanine level is 12 ft. There are three sets of stairs to the mezzanine area. The cost of installing a platform lift is \$25,000 to \$31,000.
5. The public will not be using the mezzanine level.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when compelling need is demonstrated by the Applicant. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules which have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

The Applicant has shown that adding an elevator or lift for purposes of access to the new mezzanine would be extremely costly and unnecessary given the alternatives available. The mezzanine area is a limited use area intended only for able-bodied field workers to complete layouts. Employees assigned to work on the mezzanine level, who become temporarily disabled, can be assigned to perform the

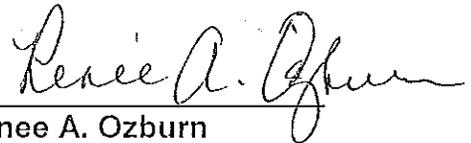
same job functions on the first floor. Therefore, the Applicant has shown a compelling need and reasonable alternatives justifying an exception to the requirements of 2006 Michigan Building Code Section 1104.4.

RECOMMENDED DECISION

I recommend the Board grant the Applicant's request for exception from 2006 Michigan Building Code, Section 1104.4.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Todd Cordill.



Renee A. Ozburn
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 26th day of January, 2011.


Shirley Dacus

State Office of Administrative Hearings and Rules

Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

John Weyer
Canton Township
1150 S. Canton Center
Canton, MI 48188

Donald F. Barry
Marble and Granite Works, LLC
719 Griswold Street, Ste. 1000
Detroit, MI 48226

Date

January 24, 2011

To

State Office of Admin. Hearings & Rules
Bureau of Construction Codes

Subject

In re Marble & Granite Works, LLC
Barrier Free Design
Exception Request
Docket No. 2011-7

From

Donald F. Barry, JD, AIA, LEED AP
Director of Operation

Project No.

JCTA10.0023.00

Distribution

Brian Colburn , Greg Seward, Rene Martinelli, Anthony Ricciuti, File

Below is an outline of our analysis for the barrier free design exception request. The issue before us is whether an elevator or inclined platform lift is required to a 4,900 SF mezzanine or whether the stairs as provided are sufficient.

The installed cost of one inclined platform lift would be \$17,800.00 plus additional costs associated with modification of the stair and access between mezzanine rooms, for an estimated total of approximately \$31,000.00. The building inspector of the applicable jurisdiction has indicated that installation of this lift would be an acceptable solution. The building is otherwise substantially complete. The parties challenge the necessity of this requirement.

All references are to the 2006 Michigan Building Code, except as noted.

1. *Are the scoping requirements of Chapter 11, Accessibility met?*
 - 1.1. §1103.2 Provides exceptions to the requirements of Chapter 11: Accessibility.
 - 1.2. §1103.2.3 Employee work areas. "Spaces and elements within employee work areas shall only be required to comply with §§907.9.1.2 (audible alarms), 1007 (accessible means of egress) and 1104.3.1 (common use circulation paths)".
 - 1.2.1. 2006 IBC §1103.2.3 Commentary "The assumption is that the employment non-discrimination requirements of the ADA will provide for "reasonable accommodations" to the disability of the employee in that station.
 - 1.2.2. ADA §2.2 Equivalent Facilitation. "Departures from particular technical and scoping requirements of this guideline by the use of other designs and technologies are permitted where the alternative designs and technologies used will provide *substantially equivalent* or greater access to and usability of the facility."

The Owner in this case has provided substantially equivalent workstations on the ground floor that may be regarded as equivalent facilitation. Thus, the scoping requirements of Chapter 11 are not met and the mezzanine is exempt from the requirements of that chapter.

2. *If Chapter 11 scoping requirements are met, is an accessible route required?*
 - 2.1. §1104.4 Requires at least one accessible route to the mezzanine *if scoping requirements are met and an accessible route is required in that area.*
 - 2.1.1. Exception 1 doesn't apply because the mezzanine is >3,000 SF.
 - 2.1.2. Exception 4 may apply if the occupant load is not more than 5 persons and does not contain public space.

Since the occupant load of the mezzanine will be between five and ten persons, exception 4 does not apply. Subdivision of the mezzanine into three separate areas, each having its own exit stair, may be deemed sufficient to meet the requirements of exception 1.

3. *If an accessible route is required, can a stair be used as a valid component thereof?*
 - 3.1. MBC §505.3 Requires that the mezzanine be provided with an accessible means of egress in accordance with §1007.
 - 3.2. §1007.1.2 Creates an exception requiring only one accessible means of egress from a mezzanine.
 - 3.3. §1007.2 Allows a 48" stairway within a vertical exit enclosure to serve as an element of an accessible means of egress.
 - 3.4. §1007.2 An exit stair within a vertical exit enclosure complying with §§1007.3 and 1020 can be an element of an accessible means of egress.
 - 3.4.1. §1007.3 Exit stairways must be 48" clear and have area of refuge. Exceptions:
 - 3.4.1.1. May be *unenclosed* if occupant load <10 and open to only one story above.
 - 3.4.1.2. *No area of refuge required* if sprinklered.
 - 3.4.1.3. *48" clear not required* if sprinklered.
 - 3.4.1.4. §1009.1.1 Allows that the width of a stair serving an occupant load of <50 persons must be 36".
 - 3.4.2. Since the building is classified as a factory industrial F-2 occupancy warehouse use per §306.3, the Table 1004.1.1 floor area allowance per occupant is 500 GSF. Thus, the mezzanine occupant load is $4,900/500 = 9.8$ persons.

The stairways provided may be considered as valid components of accessible means of egress. One stair per space is sufficient. The 42" width of each stairway exceeds the necessary requirements.

Application for Barrier Free Design Rule Exception
 Michigan Department of Energy, Labor & Economic Growth
 Bureau of Construction Codes / Plan Review
 P.O. Box 30255, Lansing, MI 48906
 517-241-9328
 www.michigan.gov/bcc

96420

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
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The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME		STREET / SITE ADDRESS		
Marble and Granite Works, LLC		7171 North Haggerty Road		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED			COUNTY	
<input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Township Of: Canton			Wayne	
Estimated Project Cost \$ 1,750,000.00		Estimated Cost of Compliance \$ 25,000.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number _____		
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP	CONSTRUCTION TYPE
Project Does Not Comply With Barrier Free Design Requirements As Follows:				
Michigan Building Code Section(s) No accessible route to mezzanine Section No. 1104.4				
Reason for Non-Compliance No elevator or lift provided.				
ENFORCING AGENCY		BUILDING OFFICIAL NAME		REGISTRATION NUMBER
Canton Township		John Weyer		001229
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
1150 S. Canton Center	Canton	MI	48188	734-394-5200
BUILDING OFFICIAL SIGNATURE (Must be an original signature)		DATE	E-MAIL ADDRESS	FAX NUMBER (Include Area Code)
		11/29/2010	jweyer@canton-mi.org	734-394-5166
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
COMPANY NAME		LICENSED INDIVIDUAL		MICHIGAN LICENSE NUMBER
NORR LLC		Donald F. Barry		42291
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
719 Griswold Street	Detroit	MI	48226	(313) 324-3110
APPLICANT (Note: All correspondence will be sent to this address)				
COMPANY NAME		APPLICANT NAME		FEIN OR SS NO.* (Required)
NORR LLC				
ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER (Include Area Code)
719 Griswold Street	Detroit	MI	48229	313-324-3110
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the state of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code)
				313-324-3111
APPLICANT SIGNATURE (Must be an original signature)			DATE	
			11.29.10	