Katherine Douglas Public Comment

From: Jana Zimmer <zimmerccc@gmail.com>
Sent: Wednesday, April 29, 2026 1:40 PM
To: sbcob
Subject: Fwd: Follow up: Objections to Tan testimony of 4.8.2026 re New Fire Board Rules
Attachments: attachments to Mona 4.9.2026.pdf; appeal to fire board 3.10.2026.docx; Rules and Regulations 22707 (1).pdf

Please include in the record if not already received.

Board of Supervisors
County of Santa Barbara
105 E. Anapamu St
Santa Barbara, CA. 93101

April 10, 2026

By e-mail and PERSONAL DELIVERY

Please find attached our appeal of Fire Marshal Tan's decision of Zimmer's Request for Same Practical Effect/ Modification dated March 5, 2026. Zimmer timely filed an appeal of said decision on March 9, as directed, and paid the $200.00 appeal fee. That appeal was directed, in the alternative, to the Board of Appeals and the Board of Supervisors. Rule 7 of the Rules and Regulations requires that a hearing be set within 30 days. No appeal hearing was held because the Fire Board does not have a quorum of members Failure to to hold a hearing, per the State Department of Forestry, constitutes a denial. Rule 18(e) provides for appeal to the Board of Supervisors.

The rules applicable to this appeal are the Rules and Regulations in effect as of the date of appeal, and which are attached. The Board of Supervisors is aware that the Fire Marshal presented new rules to them at their hearing of April 10, 2026, which eviscerated the existing rules to make the Board a rubber stamp for the Fire Marshal. Importantly, one of his nominees, the City Fire Marshal, has had previously involvement in this case and has declared his own position in the matter, so he would have to be disqualified. Those proposed rules were not adopted, nor were the rule changes described in the staff report or at the hearing. The matter was continued at the request of Supervisor Nelson solely so he could further consider possible Board appointments. Zimmer's objections to those rule changes will be submitted in a following e mail, however it was made clear that the Rules changes were specifically and uniquely directed at Zimmer's pending application to prevent this appeal to the Supervisors from occurring, at all, let alone with the procedural protections that are mandated.

These additional due process violations, and abuse of discretion, summarized here, will be addressed further both at the appeal hearing, and before the court. The Board of Supervisors has presumably been informed by County Counsel, that the court found that Zimmer had not exhausted her administrative remedies, and directed Zimmer to return to the County. The Board is or should be aware that Zimmer submit **an appeal** of the Fire Marshal's refusal to find same practical effect in July of 2023, but the Clerk declined to process her appeal at the direction of the former Fire Marshal, Rob Hazard. Subsequently, in court, County Counsel contended that Zimmer failed to exhaust her remedy because she did not file a one page no cost request form, "the application" (which she was never told about) and which was not required when the Fire Marshal approved her previous "same practical effect" request. In addition, the current Fire Marshal, Tan, failed to consider "same practical" effect, and demanded that Zimmer provide a **uniform 15' road width** in all locations along the lane. His other "alternative" was a standard hammerhead turnaround which he knew was impossible to achieve without construction *outside the easement* on the properties of both the Museum, and the owner of 2636 Las Encinas, neither of which would consent. Thus, both alternatives were infeasible.

For her part, P&D Director Plowman refused to consider the appeal of same practical effect (which is neither defined nor mentioned in the Board of Fire Appeals regulations), pursuant to her *explicit* authority to do so under 14 C.C.R 1270.6, and which is appealable under the County Land Use Development Code. Additional evidence of her bias and discrimination against Zimmer and her project, as well as Tan's abuses of discretion and failure and refusal to recognize current conditions, which continue, are manifested throughout the record.

Please coordinate with me for a hearing date. Please also schedule sufficient time (at least 1/2 hour for my presentation), as the record is voluminous. The County has, for three years, failed to provide me with any appeal or hearing, refused to meet with me or visit the property. This matter could and should have been resolved by staff agreeing to correct two fundamental mistakes: both P&D have demanded performance of conditions prior to recordation (Fire) and in Plowman's case, prior to processing the map. They (Tan and Plowman) continue to this date to correc their errors. The damages from this unlawful suspension of my rights are increasing, and ongoing.

Tort Claim 4.9.2026 Exhibit A

Summary of facts supporting claims for intentional and continuing abuse of administrative process, for conversion and intentional and negligent infliction of emotional distress.

County Counsel (Van Mullem and Patton Kim) have represented to the court, in Zimmer v County of Santa Barbara that her lawsuit cannot proceed because Zimmer failed to exhaust her administrative remedy. They claimed, **three years after the initiation of the litigation**, and after refusing, in July of 2023, to process her appeal of the Fire Marshal's determination of June 14, 2023 under Chapter 15, that she had failed to file a one page, no cost form along with the letters and evidence she did submit, in order to obtain a determination of "same practical effect", which is the only issue which has prevented approval of her SB 9 lot split.

The County claimed that the correct "process" was to file an appeal form with the County Fire Marshal under Chapter 15 of the County Code. Zimmer claimed that the correct process was for the Planning Director/Building Official to determine same practical effect under their authority set forth in 14 CCR section 1270.06(b)

Zimmer filed said appeal, under protest, on March 9, 2026. (Appeal letter attached) Defendants knew that the so called Fire Appeals Board does not/did not have a quorum and cannot therefore meet or act. The applicable Rules and Regulations as of the date of appeal set forth significant procedural protections, including but not limited to the right to cross examine the Fire Marshal, *and* the right to appeal to the Board of Supervisors. The Rules provided for a hearing within thirty (30) days, which have expired.

On April 7, 2026, *without* notifying Zimmer, Fire Marshal Tan presented to the Board of Supervisors for adoption, by Resolution, a set of new Rules, and proposed new Board members for the Fire Board. Said Item was placed on the Board's Administrative Agenda, which did not allow public comment except by request from a Board member. Although there was no emergency other than Tan's intention to prevent a fair hearing on Zimmer's appeal of his determination, the matter was included at a Board Special Meeting of which neither Zimmer nor members of the public had any notice. Tan's staff report to the Board failed to disclose the elimination of the substantive and procedural protections in the existing rules.

Based on Tan's continuous conduct in this matter since Zimmer's application was submitted, including but not limited his failure and refusal to consider lane improvements completed under protest to comply with his unlawful demands, *and* his continuing insistence that Zimmer widen and improve the lane at the location of the Bartz property, where (a) his own department accepted the current lane width, and failed to require lane widening on construction of their ADU, (b) he knows that the lane entrance was widened to 17', so that a fire truck and other large trucks have no difficulty entering the lane, Zimmer has no legal ability to require further lane widening along the Bartz frontage, he knows that (c) the current condition of the lane is physically adequate for the safe passage of a Fire Truck, and that Zimmer's home is less than 5 minutes from County Fire Station 15, and (d) he knows that the County's Safety Element, as agreed to by the Board of Supervisors, requires the Fire Department to include the feasibility of their demands in context of the State's housing priorities. Yet, he maintains his position that Zimmer's lot split cannot be approved without compliance with his arbitrary demands.

For her part, Planning Director Plowman has failed since June of 2023, and to date, to make any independent analysis of the legality or the substantive justification for Tan's demands, nor has she taken action on Zimmer's lot split, or allowed appeal of any of her actions or determinations, and continues to insist that Zimmer comply with Tan's illegal demands before she completes processing of the lot split. Plowman knows that none of these physical improvements can be required prior to recordation of the lot split and she is presumed to know the difference between conditions to be completed prior to recordation of a lot split, before construction, and conditions which can be imposed only after recordation (i.e. at the time of building permit.) She has been provided opinion letters from HCD, the administrative agency with authority to interpret the housing laws and requirements, confirming this requirement, but she persists in demanding compliance with Tan's unlawful conditions *prior to completing processing of Zimmer's application.* Both Tan and Plowman have failed and refused to consider the mitigation measures agreed to (fire suppression sprinklers), and the multiple efforts made and offered to improve fire equipment access to the lane, to solve a problem that does not exist.

Tan, Plowman, County Counsel and the Board's unlawful delay in processing and approving the lot split has resulted in delay damages of at least $300,000, attorneys' fees valued at least at $200,000, plus fees related to the administrative appeal, and damages for intentional infliction of emotional distress, including damages for physical harm such as insomnia and increased blood pressure. Defendants are aware that Zimmer has been hospitalized twice, including for a quadruple bypass since this controversy began. They are also aware that she has a particular and unique sensitivity to arbitrary government conduct, based on her experience as a refugee from communism, as well as a Second Generation Holocaust survivor.

This Tort claim is submitted to preserve Zimmer's rights under the Tort Claims Act. Her additional claims for inverse condemnation, procedural and substantive due process violations, bias and discrimination are not required to be stated here. To whatever extent necessary to establish continuing violation, this claim includes by reference all factual allegations in Zimmer's First Amended Complaint, and matters set forth in her various Declarations and Requests for Judicial Notice in her pending case. Zimmer reserves the right to add potential defendants as the evidence is further developed.

jana2640@outlook.com

From: Jana Zimmer <zimmerccc@gmail.com>
Sent: Wednesday, April 1, 2026 11:25 AM
To: Cc:; Solomon Richard; Alexander, Jacquelyne; roy.lee@countyofsb.org
Subject: Appeal Hearing rules and procedures
Attachments: Rules and Regulations 22707 (1).pdf

Ms. Miyasoto,

Thank you for your e mail of 3/31. I have some concern that you appear to indicate that "someone from the Fire Department" will be following up with me on which rules apply to this appeal. The Fire Marshal denied the "same practical effect" determination which is the subject of the appeal. If he has decided to withdraw or change his demands, he is free to contact me. Otherwise, any further deference to that office will only compound the damage done to me over the last three years.

I need to be sure that you, as the Clerk to the Fire Appeals Board understand the procedural/due process background. I am attaching here the Rules and Regulations that the Fire Board must follow, and will forward my responses to County's Interrogatories as an additional Exhibit. Based on these concerns, at a minimum, this Board, whenever or however constituted, or the Board of Supervisors on appeal needs to get its advice from independent counsel. County Counsel has been advising the Fire Marshal and representing their positions as the County's positions, for three years. I have never been granted an appeal or even an audience with the Supervisors. I am forced to come back into this administrative process,now, because County Counsel claimed I was not entitled to an appeal in front of this same Board three years ago, and they have now represented to the court that I failed to adequately "apply" for the same practical effect determination that they failed to address. On these facts, it is clear that the Board needs to hear an independent legal opinion. I am required to raise this issue now, because an issue not raised at an administrative hearing, including a claim of bias, may not be raised in later judicial proceedings. See, Nightlife Partners v. City of Beverly Hills, (2003) 108 Cal. App. 4th 81; Southern Cal. Underground Contractors, Inc. v. City of San Diego (2003) 108 Cal.App.4th 533, 549.

Since the County Counsel has maintained *to the court,* that I need to go through this additional administrative appeal process, which I am doing, under protest, I need to at least be assured that the County is going to rigorously adhere to its own rules of procedure. Therefore, please review Rule 7 (a hearing must be held within 30 days of appeal); Rule 9, a hearing requires a quorum, which this Board of Fire Appeals does not have; Rule 11 (d) (all testimony must be under oath; Rule 11(g) I have a right to cross examine the Fire Marshal); Rule 16 (the Fire Marshal has the burden of proof). **Importantly, the Fire Marshal and the Board *cannot* be represented by the same lawyers. Rule 12 and 13.** Again, I am happy to come in and discuss with you how this matter can be resolved without further compounding the damage done .

Jana Zimmer
cc: Board of Supervisors
Roy Lee, 1st District Supervisor

Gmail Jana Zimmer <zimmerccc@gmail.com>

Exhibits to Zimmer Appeal to Fire Board

9 messages

Jana Zimmer <zimmerccc@gmail.com> Mon, Mar 30, 2026 at 9:32 PM
To: "Cc:" <mmiyasato@countyofsb.org>, Jacquelyne Alexander <sbcob@countyofsb.org>, Solomon Richard <rcsolomon42@gmail.com>

Ms. Miyasoto:

Please find attached a pdf of Zimmer Exhibits (Set One) to Appeal of Fire Marshal decision denying "Same Practical Effect"

Please let me know if you are willing to meet/talk with me to discuss hearing dates, and which "Board" will be hearing this case, and when, as well as which rules apply. I have received conflicting information on these points.

--
Jana Zimmer

(805)705-3784

Record Exhibits for Fire Board Appeal 3.30.2026.pdf

Mona Miyasato <mmiyasato@countyofsb.org> Tue, Mar 31, 2026 at 10:32 AM
To: Jana Zimmer <zimmerccc@gmail.com>, Solomon Richard <rcsolomon42@gmail.com>

Hi Jana,

Thanks for your email. I've confirmed that someone from the Fire Department will follow up with you on this issue.

Mona Miyasato

Mona Miyasato

County Executive Officer, County of Santa Barbara

105 E. Anapamu Street, Ste. 405, Santa Barbara, CA 93101-2065

805.568.3404 Office; 805.618.8566 Mobile

Jana Zimmer
2640 Las Encinas Lane
Santa Barbara, CA. 93105
(805) 705-3784

March 9, 2026

Board of Fire Appeals
c/o Santa Barbara County Board of Supervisors
1100 Anacapa Street
Santa Barbara, California 93101

BY HAND DELIVERY

Re: **Appeal of Fire Marshal denial of Same Practical Effect Determination**
14 C.C.R. 1270.06 and County Code Chapter 15- Appendix

Honorable Supervisors:

1. Introduction

Appellant Jana Zimmer respectfully requests that your Board grant her appeal of the Fire Marshal's denial of "Request for Modification / "Same Practical Effect" dated March 5, 2026, and that you order the Director of Planning and Development to allow recordation of her SB 9 lot split application forthwith. In summary, the Fire Marshal continues to stand in the way of approval of Zimmer's ministerial lot split when he knows that the specific demands he has made and continues to make are and were unlawful both as to substance and timing. And the Planning Director has refused to make a decision until Zimmer complies with his unlawful demands. Thus, a decision which was and is required to be made within sixty (60) days of application has been in limbo for over *three years*, and has resulted in significant damage to Zimmer, denial of both procedural and substantive due process, loss of the opportunity to build the same housing unit which has been approved by both Fire and P&D, and has created a significant and wholly unnecessary conflict between the State's housing and fire protection policies. The simple fact is that the Fire Marshal could have substantially achieved any legitimate safety improvements in this case if he had agreed to defer his demands until after recordation of the lot split[1]. He still refuses to do so.

[1] Zimmer does not waive her contention that the Request for Modification is not the correct procedure. It presumes that "offsite" improvements can be required. County is fully aware that Zimmer has in fact complied and worked with those neighbors willing to cooperate to the extent legally and physically feasible to respond to the Fire Marshal's demands. The individual and collective motivation for the

2. Jurisdiction/ Request to Consolidate Appeals

To mitigate further continuing damages, Zimmer respectfully requests that the Board of Supervisors hear this appeal promptly and directly, and that all relevant legal questions be discussed in public. Based on County documents, the "Fire Board" currently has only two members, does not include a representative from the First District, only meets periodically, and has no demonstrated expertise to opine on the specific issues in context of the standards applicable to SB 9 lot splits. Furthermore, a narrow, artificially constricted "technical" decision will inevitably prejudice any later appeal on the merits.

In this case, ultimately, the **County** has the burden to prove, on a preponderance of evidence, that approval of Zimmer's application for an SB 9 Lot Split would result in a specific adverse impact to the public health and safety. Gov. Code Section 66411.7(d). "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written **public health** or **safety** standards. Zimmer requests that findings be made on these issues, and on the Fire Marshal's additional and knowing abuse of any discretion he claims, based on all the evidence presented, and referenced[2], because this is the sole reason that P&D have refused to make a decision to approve Zimmer's SB 9 lot split. The actions and inaction of your Executives, including Marshal Hazard, Marshal Tan, Chief Hartwig, Director Plowman, Deputy Director Seawards, over a period of three years, have upended Zimmer's plan to age and die in her home of 50 years, and the delay has resulted in significant and continuously accruing damage to her.

The court's tentative decision on writ of mandate did *not* include findings on whether the County has abused its discretion in its treatment of the "same practical effect" issue. Rather, the court effectively directed that the matter be remanded to the County. The Fire Marshal's conclusory, and factually and legally erroneous decision, which fails to consider the overall procedural and legal context, cannot and should not be a substitute for the Board's timely exercise of its responsibilities in this case, especially given their continuing denial of due process, their denial of any right of appeal, four of the Supervisors' failure to even listen to Zimmer, their unlawful deference to the former Fifth District Supervisor, their refusal to review her materials, their refusal to visit the site, and the fact that all prior discussions of this case have been held in closed session. This appeal hearing is taking place now, rather than three years ago when Zimmer's formal request for it was ignored, based on former Marshal Hazard's 'advice' to the Clerk, solely

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County's continuing failure to acknowledge that Marshal Tan's demands are and were unlawful will be addressed after completion of necessary discovery, and at the trial of Zimmer 's Complaint for their breach of the implied covenant of good faith and fair dealing. Her Complaint will be amended as necessary depending on the result of the Board's action. Zimmer has filed additional Public Records requests based on the need to respond to the Fire Marshal's contentions of March 5, 2026.

[2] See, documents cited in the Index to administrative record, already submitted, as well as additional relevant documents to be presented at the hearing.

because the County has now claimed *to the court* that it was never required to hold such a hearing.

On a staff level, the process followed in this case is another example of the County's failure to comply with SB 473, which requires *all County Departments* to comply with statutory timelines. P&D's delay, their explicit and continuing deference to the former Fire Marshal, and former fire Chief, and their failure to make a decision, has created this impasse. Despite numerous opportunities to remedy their errors, your current Fire Marshal is perpetuating and compounding them. The Board is therefore requested to take this matter up, to address the policy conflicts staff has created, so that the "tail is (not) wagging the dog." *Lesher Communications v City of Walnut Creek (1990) 52 Cal. 3d 531.*

As critical and important as our fire rules are, in this context they cannot and should not be used to override the State's housing goals **unless the case presents a clear public health and safety issue**. It simply does not, and staff knows it. The Board is fully aware of the conflicts their staff have created between the Housing Element and their Safety Element. The Board is aware that HCD agrees with Zimmer that the Fire Marshal cannot require any offsite improvements, at all. In order to resolve this case, Zimmer has gone to extraordinary efforts to satisfy the Fire Marshal, and to attempt to get her neighbors – some of whom do not want to see this unit built- to cooperate.

Staff's conduct, collectively and individually, is not based on evidence, is a serious abuse of discretion, and breach of the public trust. After three *years* in litigation over the County's failure to process her SB 9 Lot Split application to a decision, County Counsel has claimed that Zimmer failed to exhaust her administrative remedies because she did not file a one page, no-cost form with the Fire Department to summarize her multiple prior requests, including to the Board of Supervisors, that the County find, as authorized by the Safety Element, and Title 14 of the California Code of Regulations that fire protection improvements she has achieved constitute "same practical effect" as strict compliance with measures to assure fire equipment access to and egress from her property in a wildfire. The application they demanded, Request for Modification or Alternative Design and Methods Review, is not sufficient or appropriate to this determination or in this context.

Zimmer contends that the measures demanded by the Fire Marshal(s) are and were unlawful because they required her to (1) complete "offsite improvements", and (2) the P&D Director demanded that those improvements be completed *prior to* processing her SB 9 application. Because the County never allowed any appeal, these fundamental issues have never been addressed by the Board. The former Fire Marshal, Rob Hazard first made these illegal demands in a letter to Zimmer dated June 14, **2023**. Notwithstanding his specific knowledge that Zimmer has made all lane widening improvements within her legal authority to complete over the last two years, and his knowledge that there never has been an obstacle to either evacuation from or fire equipment access to Zimmer's property, the current Fire Marshal, Fred Tan, **has expanded**

on Hazard's demands to assert that the minimum lane width is 20' feet, and not the 15' width of Zimmer's easement, as acknowledged in the Mission Canyon Community Plan, *and as specifically acknowledged- in writing- by former Marshal Hazard and Chief Hartwig.* All County staff, including the Fire Marshal, have known that Zimmer never would have applied for the Lot Split had she been told the "minimum" road width requirement was 20', and that it must accommodate two-way traffic, which are both physically and legally impossible.

3. Appeal of Fire Marshal Denial of March 5, 2026: Marshal Tan's findings are not supported by the law, or by the evidence, are inconsistent with the Mission Canyon Plan and the County Safety Element, and are arbitrary and capricious.

A. Tan denies the "same practical effect" application without making any site-specific factual findings to justify it. His findings are inconsistent both with the express policies of the Mission Canyon Community Plan and with the County Safety Element, which, as the Board of Supervisors knows, HCD required to be amended specifically to avoid arbitrary denials of housing proposals, as has occurred here. (See, letter HCD to County P&D dated October 25, 2025, attached, and Zimmer letters to Board of Supervisors re: Safety Element of June 11 and July 9, 2023). Both Marshal Hazard and Director Plowman specifically assured Zimmer, in writing, that their discretion would take HCD's modifications into account. Then they proceeded to do the opposite, and Marshal Tan has effectively denied the application *in toto.*

B. Tan's conduct of this matter (in addition to the ongoing conduct of Plowman) has repeatedly violated Zimmer's procedural and substantive due process rights and has resulted in escalating damage to Zimmer over a period of two and a half years. Because of this controversy, the County has effectively revoked the building permit they granted, notwithstanding Zimmer's substantial expenditures in reliance on that permit- *and* the Fire Protection Certificate which the Fire Marshal approved, and which included a determination of same practical effect for sprinklers in lieu of the 'hose length' requirement, which is the *only* inconsistency of the project with **applicable** rules. She asserted that the Fire Marshal could and should find "same practical effect" multiple times based on improvements she made or caused to be made, of which Marshal Tan has and had specific knowledge. She offered to deed restrict the new lot to one unit and give up her right to the Residential Second unit attached to her current home to address Marshal Hazard's assertion that there would be an impermissible increase in "intensity of use".

C. Tan's decision fails to completely to address the ultimate question: whether improvements already performed (lane widening, lane paving, removal of the Museum's overhanging branch) have the same practical effect as a uniform 15' road width, in terms of fire equipment access.

D. Tan's insertion of new 'issues' demanding that Zimmer improve an alternative access to the north misses the point completely. His "suggestion" that Zimmer perform improvements on that property is patently absurd: Zimmer has no right whatsoever to make any changes on that property. This is an even more irrational demand than their insistence that she perform widening of the easement on the property of the Museum of Natural History, which has explicitly opposed

such widening, and has failed and refused to even require obstacles placed in Zimmer's easement by another neighbor (Francavilla) be removed. Zimmer cannot "take" her neighbors' private property without compensation, or at all.

The point Zimmer made is that a fire truck can access that property from the north- at 2679 Puesta del Sol, and a fire stream from that property could reach the approved unit on Zimmer's property in its approved location, at less than 150' distance. Regardless, their rejection of this "same practical effect" demonstrates that all of these demands are completely irrelevant to the Fire Department's ability to timely respond to wildfire. Zimmer's compliance with a sprinkler requirement, coupled with the fact that Fire Station 15 is less than five minutes away, and the fact that the current condition of the lane is and has been adequate to accommodate fire trucks, are more than adequate, as a matter of common sense, to constitute same practical effect. If there is a wildfire that begins above, or spreads to lower Mission Canyon, it is well known and obvious that the Fire Department would make a stand at Foothill, or at Glendessary Lane, or at Puesta Del Sol, north of Las Encinas Lane. Then they would go to the Museum. No one is coming down Las Encinas Lane specifically to save Zimmer's house from a wildfire if a spark lands on her roof. But even if that did occur, the presence of the sprinkler that Zimmer agreed to would mitigate for the few seconds that a fire engine might be delayed in its five minute journey from Fire Station 15.

The County knows there is no evacuation issue (which they asserted and then withdrew prior to the filing of the application) because Zimmer specifically informed them that she has two roads out: Puesta del Sol to Alamar, or east on Las Encinas, then south on Los Olivos. So, after the application was submitted, they 'switched' their area of alleged concern to fire equipment access, which they have known was adequate from the beginning: a Fire Truck is 10' wide by statute, Captain Olmstead previously stated that the lane was 14'[3], and the evidence is undisputed that Fire Trucks, garbage trucks, utility trucks, water trucks can all access Zimmer's driveway along the lane, *and* there is an existing turnaround at the end of the lane, immediately next door to Zimmer, at 2646 Las Encinas *which was approved by the same County Fire Department.* While the Fire Department can access any property in an emergency without permission, the County knows that owner gave his written consent,- three years ago- at the beginning of this application process, specifically for fire engines to use his property.

Finally, there is **no** evidence whatsoever that the current condition of the lane, and especially as it has been widened, presents any real-world obstacle to fire equipment access. It is inconceivable that after numerous site visits addressing issues with the individual properties- which have been substantially improved, Tan now fails to specify where, on the lane it has been inadequately "improved". He knows or should know that with the possible exception of a small portion adjacent to 2589 Puesta del Sol, it has indeed been widened to the stated minimum. He knows

[3] Hazard's assertion that the lane was "only 9.6'" was wrong when made. Tan knows that the oak branch that extended over the lane is gone and the traversable area of the lane has been widened.

that the property at 2589 Puesta del Sol, at the entrance to the lane, was approved for an ADU by his department based on that applicant's representation that it was 15' wide. The lane has nevertheless been *additionally* widened at the entrance to facilitate turning, and it has been widened along the property line to the south. He knows that fire trucks, garbage trucks, SCE trucks and other large trucks have no difficulty navigating the lane. If there is some defect in lane width the County should have addressed it when it approved that ADU. If it constitutes a health and safety hazard, the County has the authority to require it to be abated. Tan knows that Zimmer has *no* right or authority to demand further widening. Tan knows that the one so- called obstacle identified by Captain Hazard has been removed, by an Act of God (the Museum's oak tree). And he knows that repaving and other improvements have occurred and would be completed **prior to building permit**, - which is the only requirement authorized by the law. He also knows that his unlawful demands and Plowman's failure to reject them are the reason that Zimmer cannot finance construction of the unit for which his own department – and the same personnel- approved a fire certificate. Knowing all these facts, he persists in his illegal demands.

Finally, while Tan's demands are dressed up in the language of protecting the community from wildfire, Zimmer has already pointed out that his own department has failed to require road widening or repaving along roadways serving cannabis development[4], deeming them 'adequate'. And most recently, Tan (and his same staff) did not require improvement of a *county- owned road* in the Painted Cave State Responsibility Area (SRA),and allowed two new units to be approved because he apparently understood the limits of his authority in that case, and the County's obligation to approve otherwise qualified housing projects. That property had no real access to fire protection, while Zimmer's property is on flat land, less than five (5) minutes from the County Fire station, and has two evacuation routes. Tan's demands- which perpetuated and were more onerous than Hazard's, were illegal, arbitrary and capricious, and unsupported by any relevant fact.

Conclusion

If the trial court or the Court of Appeal confirm that the HCD's interpretation of the prohibition on *offsite improvements, or any improvements prior to recordation* must prevail over the County's 'analysis', the Fire Marshal's demands for such improvements are and were prohibited in their entirety. If, for some reason the County prevails on appeal in its current legal position, the ultimate issue remains: whether the Fire Marshal's (and Plowman's) demands of Zimmer, both as to timing of performance and extent of improvements demanded are supported by a preponderance of the evidence.

Zimmer will demonstrate at the appeal hearing, based on the evidence already in the record and additional evidence, that there is no factual support for the Fire Marshal's demands, and no justification for the Planning Director's failure and refusal to approve the lot split. These County

[4] Zimmer has filed a new Public Records request asking specifically for evidence of the department's practices on approving same practical effect.

officials have knowingly thwarted Zimmer's plan to age in place, in her home of 50 years. They know that the only reason she sought a separate parcel was to enable financing and construction of the same unit they had approved and to retain her fire insurance. They have made that impossible. If their conduct and "process" is not corrected, there is no doubt that these arbitrary and capricious "errors" will be repeated, and others will be discouraged or prevented from applying under these State mandated housing programs.

The sad irony in this case is that if the County Executives responsible for these decisions had been willing at any point to enter any genuine discussion, the matter could have been resolved. Zimmer made multiple offers to resolve the Fire Marshal's (unwarranted) concerns, and would have agreed to complete any legitimately required additional improvements *after* recordation, and on issuance of a building permit, as the law authorizes. But they wouldn't engage in explaining the legal basis for their demands or finding solutions: not prior to submittal of the application, not during the approval process, and their executives literally treated Zimmer's attempts to understand their demands as a laughing matter. See, e.g. e-mail exchange Zimmer, Seawards to Plowman (4/13/2023). They- and County Counsel- forced Zimmer to litigate, and now, apparently, they continue to advise, *in closed session,* and with no opportunity for Zimmer to know what they represent to the Board, or to respond, that the Board stick to a factually, legally and ethically bankrupt position. It behooves the Board to ask why.

This, finally, is the opportunity for the Board to change course, act in accordance with their own policy, and State policy, and begin to remedy the harms done by their *former* County Supervisor, their *former* Fire Marshal, and their *former* Fire Chief, and which are now being perpetuated, with no rational or fire-safety basis, by Marshal Tan and the Planning Director. Please grant the appeal and direct P&D to approve the lot split forthwith, and with no conditions.

Very Truly Yours,

Jana Zimmer

RULES AND REGULATIONS
OF
COUNTY FIRE'S BOARD OF APPEALS

1. Definitions:

    a. "Appeal Application" or "Application" means an application for appeal submitted to the Board of Appeals.

    b. "Applicant" means the individual or entity that has filed an appeal application with the Board of Appeals.

    c. "Board" means the Board of Appeals created pursuant to the California Fire Code as amended by Sec 15-9 of Chapter 15 of the Santa Barbara County Code.

    d. "Clerk" means the Santa Barbara County Executive Office.

    e. "Days" mean calendar days.

    f. "Enforcement order" means any directive issued by the Fire Department to gain compliance with California Fire Code as amended by Chapter 15 of the Santa Barbara County Code, including corrective orders and stop orders.

    g. "Fire Chief" means the Fire Chief or designee of the Santa Barbara County Fire Department.

    h. "Fire Department" means the Santa Barbara County Fire Department.

2. Board's Jurisdiction and function:

    a. The board's functions are:

        i. To hear appeals to determine the suitability of alternate materials and types of construction and to provide for reasonable interpretations of the provisions of the California Fire Code as amended by the Santa Barbara County Code.

ii. To render decisions after appeal applications are heard, and to render interim orders related to an underlying appeal.

3. Appeal Application:

a. No relief may be granted by the board with regards to an enforcement order that is the subject of an appeal application unless a timely application is filed with the board as set forth below:

i. An application is filed by applicant or by applicant's agent.

ii. If the applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.

iii. An application shall be filed within 10 days after effective service of an enforcement order. Service of an enforcement order shall be effective upon any one of the following, at the election of the fire department:

1. Personal delivery on the applicant or on his/her representative at the subject property, by a fire department representative and the mailing of the enforcement order by certified mail to the last known address of applicant. The service is effective on personal service of the enforcement order on applicant or on his/her representative. The mailing does not extend the time to file an appeal; or

2. Mailing the enforcement order by regular mail and by certified mail to the last known address of applicant. The service is effective five days after the date of mailing.

iv. The applicant or the applicant's agent shall pay the required appeals fee.

b. The application shall be in writing and signed by the applicant or the applicant's agent.

c. The fire department shall provide forms, free of charge, on which applications are to be made.

d. The application form shall require that the applicant to provide the following information:

   i. The name and address of the applicant;

   ii. The name and address of the applicant's agent;

   iii. The applicant's written authorization for an agent, if any, to act on the applicant's behalf;

   iv. A description of the property that is the subject of the application;

   v. A description of the enforcement order that is the subject of the application.

e. After an application is filed and during a hearing, the board may for good cause permit amendments and corrections to applications.

f. The board, on its own motion or on a timely request of the applicant or the fire department, may consolidate applications when the applications present the same or substantially related issues of fact or law. The board shall notify all parties of the consolidation if the applications are consolidated.

g. The clerk may destroy records consisting on the appeal when five years have elapsed since the final action of the application.

4. Prehearing Conferences:

The board may set prehearing conferences to discuss with the parties the status of the case, calendaring for hearing, the issues of fact and law of the case, and any other matters for the

efficient administration of the case. The clerk shall give notice to the parties of any prehearing conferences.

5. Notification of Hearing:

   After the filing of the application, the clerk shall set the matter for hearing and notify the applicant or the applicant's agent in writing by personal delivery or by deposition of the notice in the United States mail directed to the address given in the application.

   a. The notice shall designate the time and place of hearing.

   b. The notice shall be given no less than 10 days before the hearing.

   c. The clerk shall notify the fire department of the time and place of hearing.

6. Disqualification:

   The party affected or the party's agent or the fire department may file with the clerk a written statement objecting to the hearing of a matter before a member of the board.

   a. The statement shall set forth the facts constituting the ground of the disqualification of the member and shall be signed by the party affected or the party's agent, or by the fire department, and shall be filed with the clerk at the earliest practicable opportunity after discovery of the facts constituting the ground of the member's disqualification, and in any event before the commencement of the hearing of any issue of fact or law in the proceeding before such member. Copies of the statement shall be served by the presenting party on each party to the proceeding and on the board member alleged to be disqualified. Within 5 days after the filing of the statement or 5 days after service of it on him or her, whichever is later, the board member may file with the clerk an answer:

      i. Consenting to the proceeding being heard without his or her participation, or

ii. Denying his or her disqualification, which answer may admit or deny any or all of the facts alleged in the statement and set forth any additional facts relevant to his or her disqualification.

b. The clerk shall forthwith transmit a copy of such answer to each party.

c. Every statement and answer shall be verified by oath in the manner prescribed by section 446 of the Code of Civil Procedure.

d. The question of the member's disqualification shall be heard and determined by a board member, other than the member subject to the disqualification challenge, agreed upon by the parties who have appeared in the proceeding, or in the event of their failing to agree, by a member assigned to act by the clerk. Within five days after the expiration of the time allowed by these rules for the member to answer, the clerk shall assign a member to hear and determine the matter of the disqualification.

e. Once the member has been selected pursuant to subsection (d) that member shall determine the qualification of the challenged member.

7. Setting Hearing:

A hearing must be held within 30 days after the filing of the application with the clerk, unless the parties and the board mutually agree in writing or on the record to an extension of time.

8. Chair:

The board shall select one of its members to act as chair and preside over the hearing. The chair shall exercise such control over the hearing as is reasonable and necessary. He or she shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence.

9. Quorum:

Three members shall constitute a quorum for a hearing. No hearing shall be held unless a quorum is present. No decision, determination, or order shall be made by the board by less than a majority of vote of all the members of the board who have been in attendance throughout the hearing. If after the commencement of the hearing, a board member becomes unavailable, the parties may stipulate that the hearing may continue with the smaller board, so long as, at least a quorum is present.

10. Hearings Recorded: All hearings before the board shall be recorded or reported. The parties, at their expense, may have the hearing reported by a stenographer. If a stenographer is present, the board may designate the reporter's transcript as the official record upon it being file with the board.

11. Hearing Procedure:

    a. The chair or the clerk shall announce the application and the name of the applicant. The chair shall then determine if the applicant or the applicant's agent is present. If neither is present, the chair shall ascertain whether the clerk or the fire department has notified the applicant of the time and place of the hearing. If the notice has been given and neither the applicant nor the applicant's agent is present, the application shall be denied for lack of appearance, or, for good cause of which the board is timely informed prior to the hearing date, the board may postpone the hearing to a later date and the clerk or fire department directed to give proper notice thereof to the applicant.

    b. If the applicant or the applicant's agent is present, the chair or the clerk shall announce the nature of the application. The chair may request that either or both parties briefly describe the subject property, the nature of the enforcement action, the

issues the board will be requested to determine, and any agreements or stipulations agreed to by the parties.

c. In applications where the fire department has the burden of proof, the board shall require the fire department to present its evidence first, and then the board shall determine whether the fire department has presented proper evidence supporting its position. This is sometimes referred to as the burden of production. In the event the fire department has met its burden of production, the board shall then require the applicant to present his or her evidence.

d. All testimony shall be taken under oath.

e. The hearing need not be conducted according to the technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

f. Hearsay evidence shall be admissible for any purpose, but shall not be sufficient by itself to support the written findings and decision unless it would be admissible over objection in a civil action.

g. Failure to timely object to evidence constitutes a waiver of the objection. The board may act only on the basis of proper evidence admitted into the record. Board members may not act or decide an application based upon consideration of prior knowledge of the subject property, information presented outside of the hearing, or personal research. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for cross-examination of all witnesses and materials preferred as evidence, for argument and

for rebuttal. The party having the burden of proof shall have the right to open and close the argument.

h. Hearings by the board shall be open, accessible, and audible to the public, except that:

i. Upon conclusion of the evidentiary portion of the hearing, the board may take the matter under submission and deliberate in private in reaching a decision, and

ii. The board may grant a request by the applicant to close to the public a portion of the hearing relating to trade secrets. For purposes of this rule, a "trade secret" is that information defined by section 3426.1 of the Civil Code. Such a request shall be make by filing with the clerk a declaration under penalty that evidence is to be presented by the fire department or the applicant that relates to trade secrets. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed to the party to whom it relates.

12. Legal Counsel Fire Department and Applicant: The applicant and the fire department may be represented by legal counsel.

13. Legal Counsel for Board: County Counsel may serve as legal advisor for the board.

14. Examination by Board: The board may examine the parties on the issues and subject matter of the application.

15. Personal Appearance by Applicant; Appearance by Agent:

a. The applicant must personally appear at the hearing or be represented by an agent. If the applicant is represented by an agent, the agent shall be thoroughly familiar with the facts pertaining to the matter before the board.

b. Where the applicant is a corporation, limited partnership, or a limited liability company, the business entity shall make an appearance by the presence of an officer, employee, or an authorized agent, thoroughly familiar with the facts pertaining to the matter before the board.

c. If an agent is previously authorized by the applicant to file an application, no further authorization is required for that agent to represent the applicant at the subsequent hearing.

16. Burden of Proof:

a. The fire department has the burden of proof to establish the correctness of any enforcement orders that are the subject of the application.

b. The applicant has the burden of proof to establish any new matter raised as a defensive matter in response to the fire department's enforcement order that is the subject of the application.

c. In weighing the evidence, the board shall apply the same evidentiary standard to the testimony and documentary evidence presented by the applicant and the fire department.

17. Postponement and Continuances:

a. The board may continue a hearing before the commencement of the hearing or during a hearing.

b. If a party requests a continuance of the hearing before the date set for the hearing, the party shall file a written request for the continuance of the hearing with the clerk showing good cause for the continuance and appear before the board on the scheduled hearing date for the board's consideration of the request for continuance, unless the board excuses such personal appearance.

18. Decision:

a. Acting upon proper evidence before it, the board shall render and make a final written determination on the subject matter of the application.

b. The determination shall be supported by a preponderance of the evidence presented during the hearing.

c. The board is not bound by the opinions promoted by the parties to the appeal, but shall make its own determination of the factual and legal issues based upon the evidence properly admitted at the hearing.

d. The final written decision, which shall constitute the board's written findings of fact, shall fairly disclose the board's decision and findings on all material points, both legal and factual, raised in the application and at the hearing.

e. The decision of the board may be appealed to the Board of Supervisors, if an appeal application is filed with the clerk of the board within 20 days of when the written findings of fact is served on the parties.

19. Notice and Clarification of Decision:

a. The board may announce its decision to the applicant and the fire department at the conclusion of the hearing, or it may take the matter under submission. The decision becomes final when the board issues the final written decision and findings of fact.

b. The board may request any party to submit proposed written decision and findings of fact and shall provide the other party an opportunity to review and comment on the proposed findings. If both parties prepare proposed findings of fact, no opportunity to review and comment need be provided.

c. When findings of fact have been prepared, either party may submit a request for clarification about the details of the decision, but such clarification shall not alter the final determination of the board.

20. Reconsideration and Rehearing:

a. The decision of the board upon an application is final. The board shall not reconsider or rehear an application or modify a decision unless the decision reflects a ministerial clerical error.

21. Filing Appeal Does Not Stay Enforcement Order:

a. The filing of an application does not operate as a stay of an enforcement order that enjoins or prohibits the performance of an act, operation, activity and/or that mandates and requires the performance of an act, operation or activity. However, the Fire Chief has the discretion, as circumstances may require, to provisionally modify an enforcement order after an appeal has been filed and pending the board's final decision on the appeal. However, such a modification does not give right to an appeal since such modification is a provisional remedy that is effective up to the board's final determination on the appeal.