

January 16, 2008

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TO: Mayor Blum, Members of City Council

JAN 23 2008

FROM: Cheri Rae McKinney, on behalf of the La Muralla Owners Association and Salsipuedes Street Neighbors

CITY CLERK'S OFFICE
SANTA BARBARA, CA

RE: The Appeal of the ABR Landscape Plan for 601 East Anapamu Street by the LaMuralla Owners Association and Salsipuedes Street Neighbors

ACTION REQUESTED: Support the Appeal on January 29, 2008, and consider the suggestions delineated below to remedy this situation and make institutional changes to prevent the loss of additional community resources.

EXECUTIVE SUMMARY

For several months, during the spring of 2007, individual citizens attempted repeatedly to work with the management company (BDC) represented the new property owner, local investor Hank Hurst and his partner Los Angeles attorney Richard Rosin (H & R Investments) to comprehend the extent of the tree-cutting that occurred at the 2.3-acre property known as Villa Flores Apartments. Each citizen was told by representatives of BDC speaking for the property owner that the work was fully permitted and approved by the City; each was surprised, but trusted and expected they were being told the truth. (See attachment 1 for information about the sale of the property.)

On June 18, 2007, a team of workers began demolishing the historic rock wall on Salsipuedes Street—and nearly crashed the bulldozer into a neighbor who had to swerve to avoid the machine, citizens had no recourse other than to contact city officials to intervene. By that time, up to 100 trees on the property had been cut down and ground into dust by Action Tree Service. The citizens finally became united in their efforts when they summoned the City Historian to the scene; when he observed the damage, he had a Stop Work order issued, and informed the citizens that none of the tree-cutting of up to 100 trees on the property, or the rock wall demolition, or the removal of an historic hitching post—had been officially permitted and that no landscape plan had ever been approved.

Until the Stop Work Order was issued, the ABR review of the extensive landscape changes and alterations to the stone walls was limited to review at consent only by the sole landscape architect on the ABR, and no notification of the public. The citizens discovered they had been repeatedly misled and uninformed about the ongoing approval process and the extent of the alterations planned for the project.

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Only then did citizens become drawn into the ABR approval process, which has been lengthy, difficult, and frustrating—complicated by inaccurate information, lack of properly thorough oversight, and communication difficulties over timing, procedures, and the public's right to participate in the process.

Through much time-consuming research, citizens have finally untangled this complicated matter, and learned that IF a few procedural matters been appropriately followed at the outset—with particular sensitivity to the property's location within the Lower Riviera Special Design District—this entire situation would likely have been avoided.

Now we have no choice but to request your assistance in restoring tranquility to the neighborhood, with the aesthetic ambiance of placing far more, bigger, leafy trees similar to the mature specimen, historically significant ones that have served as softeners to the apartment buildings, as well as habitat for the creatures that once lived here.

Importantly, however, no one in the entire Community Development Department—from planning technician level, up to and including senior staff and even the then-Director (and the current acting Director)—ever took the time to fully, or even partially, investigate the neighbors' concerns, yet they continued to accept the applicants' version, and even after they made several misrepresentations (on the record at the ABR meeting of July 24 and strongly protested by citizens). They also continued to defend their own actions and repeated erroneous information to Council, ABR members as well as citizens, rather than seriously investigate the concerns raised.

Upholding the appeal and requiring enforceable repair, reconciliation and resolution of this matter to all who have participated in the improper reviews and distribution of erroneous information is essential to restore equilibrium in this neighborhood and the greater community. Although the loss of these specimen trees cannot be fully mitigated, it must be addressed.

Other communities have dealt quite harshly with scofflaw behavior when it comes to trees: the city of Glendale, CA recently levied a fine of nearly \$350, 000 to a couple who inappropriately cut a mature tree on their property, and a judge in Las Vegas recently sentenced a man to five years in prison for the cutting of 500 trees in the city. We do not advocate such measures—but surely there must be a clear message sent that the ends do not justify the means; this not the way we do things in Santa Barbara. The current low-level of doubling the \$125 permit fee as a fine is an insult to the public. This behavior must be sanctioned and stopped and an example set for any others who might contemplate similar action.

AFTER UPHOLDING APPEAL, SUGGESTIONS FOR RESOLUTION OF THIS ISSUE

WE SUGGEST AND STRONGLY URGE the creation of an ad-hoc committee to focus on this particular property and how best to restore with respect to its history, architecture, landscaping and environmental importance to the neighborhood. It could be created much like the successful committee that was recently created to restore the Wine Cask to its 1925 grandeur after a similar situation of tree and cultural destruction occurred there under the direction of its over-eager new owner. The myriad issues involved here—from aesthetic concerns to restoration of habitat for birds accustomed to nesting in tall trees, as well as shielding noise and light, and suggestion of the creation of an historic plaque or display—cannot be dealt with completely with just the expertise of the ABR. Members might be selected from HLC, the parks department, the ABR and knowledgeable stakeholders willing to work toward a positive and fair resolution of this complex injury to our community.

SUGGESTIONS FOR THE PREVENTION OF FUTURE INCIDENTS

MAKE INSTITUTIONAL CHANGES—The complete failure of those charged with the protection and preservation of our community's resources requires swift and sure institutional changes. Your action to address this issue head-on will be welcomed by the citizenry who all-too-often observes and believes that development runs this city.

It's clear that the history of this property was not considered, and no one bothered to investigate it, even though there was clear information available on the original landscape plans, in the Zoning Information Report and embedded in the computer that the property was subject to historical review. The zeitgeist of the Planning department in this case (and others with which we are familiar) reveals that historical concerns were not of importance—even when required.

It makes little sense for the City Historian to be under the supervision of that department—the two are inherently in conflict. We strongly suggest the establishment of a fully staffed Office of Historical Preservation (similar to the ones in Pasadena and Houston, Texas) with competent researchers who have time to investigate before destruction occurs—and powers of enforcement if it does. This office should be independent of the Community Development Department and be expected to fully and completely disclose historic value, as well as possible conflicts that might occur on the site. The protection of our community's historical, cultural, and environmental resources is more critical today than ever, and if we're to have anything left to protect in the future, we must act boldly now.

INFORMATION AND EDUCATION PROGRAM: Clearly far too many individuals charged with protection of our community's resources do not understand their significance. We must do better to inform—and continually educate City employees and contractors, with particular emphasis on the issues, individuals,

addresses and neighborhoods of particular historical, cultural and environmental sensitivity throughout the city. The publication and distribution of a reference handbook, and possibly development of curriculum for specific training are two ways this could be handled. (Financing these projects is a way for the hasty developer to repay the community for the vast amount of unpermitted work.)

ENFORCEMENT OF CONSEQUENCES: Put on notice to developers, management companies and their agents, as well as, but not limited to, landscaping and tree-cutting companies that if they should skirt the rules and/or conduct unpermitted work it will not be tolerated, and will have serious consequences—and then follow through with appropriate penalties and mitigations

NOTIFICATION OF NEIGHBORS: Reevaluate the need for proper proactive notification of members of the neighborhood when a project of this size and magnitude—2.3 acres—nearly an entire city block, and the clear-cutting of 100 trees—is under review. Common sense alone reveals that had the citizens in the surrounding neighborhood received advance notification about the extensive plans for the property—and the received none—they would have pointed out the historic significance of the property, and this controversy would have likely been avoided.

QUESTION CONSENT: Reevaluate how a project is allowed to be reviewed solely at consent, particularly when there is only a single landscape architect on the ABR. This review by only one member of ABR created an unnecessary burden on that sole member, prevent other members from offering their expertise, and there were too many meetings held without benefit of public review, minutes, or record of the proceedings.

HISTORY OF THE PROPERTY

Dr. Doremus: The original building at 601 East Anapamu Street was the expansive home constructed for Dr. A. Boyd Doremus, “The Father of Santa Barbara’s Parks” in 1893. “. . .using exotic seeds brought with him from Europe, and exchanging seeds with neighbor Dr. Francesco Francheschi, Dr. Doremus soon had a garden which was the envy of everyone in Santa Barbara.” (Source: Walker A. Tompkins, “Santa Barbara History Makers,” 1983, pp. 224-227) The garden was regularly featured in the pages of “Santa Barbara Gardener,” edited by Lockwood and Elizabeth de Forest (parents of Kellam de Forest) and published by the Plans and Planting Committee of Santa Barbara. It was regularly the site of grand parties, weddings and gala events that attracted luminaries from around the world.

After serving as the President of the Park Board from 1902 to 1920, and cultivating and transplanting trees from his property to park and street sites all over Santa Barbara, Dr. Doremus died in 1937. His passing was mourned by the city and the larger horticultural community. The “Santa Barbara Gardener” noted (in part) in its last issue, “His friends might well honor his memory by planting in their gardens some rarity and thinking of it as his tree. . . .he created the parks of Santa

Barbara and left to all the people a heritage that will ever keep his memory green.”

As recorded in “Noticias,” Spring, 1981, p. 16:

“With fifty-five of his ninety-five years devoted to Santa Barbara, he is remembered as one of the city’s foremost benefactors through his work in behalf of the parks and street tree plantings. Those who know the story can scarcely go anywhere in Santa Barbara without being reminded of Dr. A. Boyd Doremus.

“Anita [his daughter] continued to live at home in the unusual garden setting until her death in 1955. Now the residents of **those apartment houses, later built so skillfully amidst the trees, enjoy those forty-some species planted so long ago.**”

The Approvals for the Apartment Complex: In the early 1960s the Doremus property was subdivided, and readied for development into three apartment complexes—but the trees on the property continued to be preserved. The Hill (Koonce) family applied for and received a setback variance (opposed by several citizens) to accommodate the trees on the property when they submitted plans for the apartment complex. As contained in the letter to the Planning Commission by their attorney, John J. Bugay, Jr.:

“The whole project is designed to face into the center of the block which is beautifully landscaped. The building in question [for the variance], Building A, cannot be moved because the topography does not permit it. This entire project has been designed so that not one single tree on the property has to be removed. Some of the trees have been appraised at \$9,000.00. They include some of the largest specimens of their kind in California.”

Even the parking was sited to accommodate trees on the property. As contained in the June 19, 1963 letter from the ABR to Mr. and Mrs. Hill:

“Final plans for changing the parking to accommodate some trees on the property located at 601 East Anapamu Street were reviewed by the Architectural Board of Review on June 17, 1963. After review and discussion, the revision of the parking plans was approved as presented.”

The resulting apartment complex set amongst the trees was considered so attractive that a picture-postcard was actually issued to commemorate the property. (You will see a copy of this postcard at the Appeal hearing on January 29.)

The original 1962 plans for the apartment complex show clearly that the ABR required the addition of at least two trees to a total of 18 on the landscape plans, as well as to retain the original stone walls along the driveway and along Salsipuedes Street. (You will see this original plan, as well as evidence of the demolition of these stone walls at the Appeal hearing).

In short, this entire very large, 3-story, architecturally undistinguished apartment complex was carefully designed, constructed and permitted only if it were to be hidden amongst

the trees. From the time the buildings were constructed in late 1963 until 2007, they were they were partially hidden by, and softened by large trees. Never have they been fully exposed until the clear-cutting of 2007. And the current landscape plan will take ten more years to hide them once again. This was clearly not the intent of the original builders not the 1960s decision-makers and it is not appropriate today, either.

THE 2007 SALE OF THE PROPERTY: In December 2006, prior to the sale of the property, the City of Santa Barbara issued a Zoning Information Report, which states on page 3 that the property is located in the Lower Riviera SD District: “Special Historic Compatibility Design Guidelines may apply to this property. Refer all building permit applications to Planning prior to building permit issuance.”

There does not appear to be any historic review of the property conducted by anyone in the city until the citizens summoned the Urban Historian to the scene on June 18.

Although the property did not change hands from ownership by the Koonce Family Trust to Investor Hank Hurst (H & R Investments), until February 8, 2007, landscape architect Katie O’Reilly Rogers and consulting Arborist Bill Spiewak walked the property on January 4, 2007 for an inventory and assessment of the trees on the property. In that report, there is no mention of the history of the property, its relationship to Dr. Doremus, or the possibility of valuable mature specimen trees that may require a close look for preservation and protection.

Additionally, in view of the fact that existing trees had been appraised at up to \$9,000 in 1962, a consultation with a qualified tree appraiser, complete with an inventory of photos of all trees evaluated before and after (as suggested in the City’s brochure, “Trees and Views”), would have been prudent and responsible.

DEPARTMENTAL AND INDIVIDUAL LACK OF ATTENTION TO REQUIRED HISTORIC REVIEW: The Zoning Information Report issued in December, 2006, properly indicated to the new owner that the property may be subject to Lower Riviera District Special Design Guidelines. Unfortunately, the Urban Historian was not involved in the evaluation of the project until June when summoned to the scene when the trees had all been cut down and the bulldozer was actively demolishing the stone wall. He had the Stop Work order issued on June 18 for numerous health and safety violations. In an e-mail dated July 25, Paul Casey wrote, “In total, I think staff has been responding quickly and appropriately to this issue. As you are aware, Jake Jacobus pursued the issue and got a stop work order, despite the fact that this is not an historic building and not in HLC’s purview.” (While the building is not historic, the property is, and clearly the then-head of the department had no idea of its significance, nor the extent of the damage done to its resources—although its location, information in the computer and on the original plans should have informed him otherwise, had he looked.)

The original planner on the project, Mr. Tony Boughman, was asked by Cheri Rae at the Planning counter on January 15, 2008 at 4:20 p.m. to explain why the property

never received historic review, despite its listing (on the Zoning Report and indication on the computer) as part on the Lower Riviera Special Design District. He stated, "That district doesn't mean anything." And then went on to say, "I've never heard anything about it. It means nothing."

Clearly there is a serious problem when those who are entrusted with upholding our City's rules and ordinances so clearly reveals he has no knowledge, nor respect for them. We must seriously question the individual competence and larger culture of lack of accountability in a situation with such far-reaching consequences. Recent events at both the Wine Cask and this property might indicate a less than vigorous concern for historical values and need to seriously address this issue.

THE DESTRUCTION OF THE PROPERTY

TREES: The tree cutting on the property commenced in Spring 2007 without permits or an approved landscape plan in place. Although the management company continued to go through the motions at ABR (consent only), they were cutting down the trees throughout the evaluation process. While the neighbors continually inquired about the scope of the cutting, we were assured repeatedly by the management company every bit of the work had been permitted and was proceeding with the city's blessings. Examples:

"When the first set of trees was being removed, back about April 16, I and other of my neighbors were very upset but could not find out any information. I knew not of what to do, but was told by a very angry owner of Action Tree Service that they had permits to cut certain trees, and that no more trees would be cut down...Neither was true!" (Sharon Summer e-mail to Cheri Rae, June 18, 2007)

"I spoke to Karen Quinn of BDC Management who explained that the tree removal was approved by the city arborist and all changes have been permitted by the ABR. (Julie Wood e-mail to planner Tony Boughman, June 18, 2007)

"Per the city ordinance, the owners have the right to do what they choose on their private property, with the exception of removing oak trees" (Karen Quinn e-mail to neighbor Monie June 20, 2007)

"We had permits to cut down the trees. I would appreciate it if you would translate that to everyone." (Message left on answering machine of Julie Wood by Karen Quinn of BDC Management Co.)

In fact, not a single tree approved for removal by the Street Tree Committee was tagged with the required notice so that neighbors and citizens might register their comments or concerns. And without an approved landscape plan in place, not a single tree was supposed to be cut down.

Citizen concern about the loss of the trees includes aesthetic issues—which exposes boxy, huge and unattractive buildings for the first time ever—as well as one of environmental degradation, which has devastated, in particular, the bird habitat. In addition, the loss of sound absorption and deflection of sunlight has resulted in a stark, harsh environment that was once softened by a leafy ambience.

The current landscape plan, as finally approved on October 22, is wholly inadequate in addressing these concerns, and according to the ABR landscape architect, the property will not be once again shielded by trees for ten years. That is simply too much of a

burden to place on the surrounding property owners, particularly those of advanced age—and not the intent of the original decision-makers when the buildings were constructed.

The loss of the original specimen trees, most of which were healthy and vital, has resulted in damages that simply cannot be calculated—but must be considered within the historical context of Dr. A. Boyd Doremus, his good work and his legacy for this property and this city.

STONE WALLS: After an inquiry by a member of the ABR in August, our Urban Historian inaccurately assumed (but obviously did not research, as he freely admits) the wall was from the 1960s, and issued a statement containing that opinion at the request of a member of the ABR:

“The dry stacked stone retaining wall dates to the construction of the complex in the early 1960s and is therefore not considered to be historically significant. It is not known if the stone hitching post was original to the site or not. There were several houses on the site prior to the construction of the modern apartment complex...” (inaccurate memorandum from Jake Jacobus was distributed to ABR, Council, but not the citizens involved) Historic photographs obtained by neighbors from the Gledhill Library prove that both the sandstone wall along Salsipuedes and the driveway stonework were original to the 1893 property (and indicated on the 1962 plans as existing stonework that had to be saved). Mr. Jacobus said on January 9, 2008, outside the David Gebhard Room, that if the City Staff had followed proper procedures, he would have requested a study to determine the status of the wall—and presumably much of this destruction and upset would have been avoided. There is no mention of the historic nature of the property noted anywhere in the current file. In similar fashion, the historic sandstone hitching post was removed to make way for the bulldozer, and either placed on private property, or—as newly revealed—may have been destroyed by the bulldozer.

The landscape plan approved by the ABR requires the applicant to substantially repair the existing wall, but does not take into account its historical value—because it was never properly informed by anyone from the city. The plan must be reevaluated to properly repair and reconfigure the damage—and reconsider the addition of stone stairs built out of stones obtained from the wall.

INACCURATE REPRESENTATIONS TO ABR: When the Stop Work Order triggered noticing of neighbors and review by the entire ABR, rather than just at consent, the meeting was held on July 24, 2007. Citizens were shocked when the applicant, as represented by Karen Quinn, Richard Castillanos and Katie O’Reilly Rogers, presented the landscape plan as if no trees had been cut down and ground up. They failed to mention the unpermitted destruction of the historic rock wall, the removal of the historic hitching post, and the issuance of a Stop Work Order by the City. Citizens were even more surprised when the planner on the project did not indicate in any way that the representations of the applicant were erroneous and misleading. It was left to the citizens to explain the true situation

on the ground, and it was both disrespectful and unpleasant for them—and the ABR—to be placed in that position. PLEASE REVIEW THE TAPE TO WITNESS THE PROCEEDINGS FOR YOURSELF PRIOR TO THE HEARING OF THE APPEAL.

INACCURATE SUMMARY OF THE SITUATION: When Planner Bettie Weiss was asked to summarize the situation in her memo dated June 22, 2007, she mentioned the “alterations to retaining walls,” and concluded, “My role has been to share basic info so as to convey to Council and the neighbors that his matter is well understood and being addressed appropriately.” It was neither well understood, nor addressed appropriately. Unfortunately, this is yet another example of the staff’s failure to grasp the significance of the historic property and the extent of the damage done to it—and a determination to soothe and quiet, rather than to seriously investigate what had happened.

This is a classic example of staff telling its version of the story, without properly researching it.

TIMING OF THE APPEAL: Mr. Limon is now claiming that the neighbors have raised a “late appeal,” however the confusion about the proper time to appeal was largely of his own making. We neighbors have a long record of correspondence in attempting to understand when the Final Approval was actually final. Several inquiries to Mr. Limon, as well as Mr. Casey went unanswered, and we have record of those e-mails and phone calls as well. The confusion extended to the members of the ABR, who, when contacted, advised we neighbors that they themselves weren’t clear about when the approval would be final—and that further inquiry should be addressed to Mr. Limon. Alterations to the landscape plan continued at consent, with the participation of neighbors, until the Final Approval of October 22nd. The citizens, who had dutifully attended these consent meetings, were led to believe that the right to appeal extended up to ten days beyond the date of the final, final approval, which was finally granted by ABR Commissioner landscape architect Randy Mudge—but only after a meeting (on October 4, 2007) held between him and Mr. Limon—without the public having the opportunity to participate or observe. After the final approval on October 22, one ABR member termed the entirety of the project, “A horror,” and another said that the landscape plan was the best that could be “negotiated.”

PARKS DEPARTMENT/STREET TREES: The department’s own brochure available online, is entitled “Trees and Views.” It contains the following:

“Any discussion about trees and other vegetation with respect to the preservation of views from private property must begin with a realization that both views and vegetation have considerable value and can co-exist. While experts tell us that a scenic view adds value to our home, they also tell us that trees and landscaping can account for between five and ten percent of our property’s worth. Santa Barbara residents enjoy their private views of the ocean,

mountains, and the city, but also realize that attractive landscapes, including skyline trees, are an essential part of a valued—and valuable—public or private view....Large trees add value to the owner's property, to the neighborhood, and to the whole community. Trees replenish oxygen, improve air quality, and provide wildlife habitat....The borrowed views of neighbors' trees can enhance the aesthetic qualities of your own landscape.”

It's almost unthinkable that no one in the City Parks Department who inspected the property realized the historic significance of this property, particularly with their relationship with Dr. Doremus. A portrait of the First City Parks Superintendent, Dr. Doremus, actually hangs in the Park Office on Laguna Street. Just a couple of months ago, the current Park Superintendent who holds the office first established by Dr. Doremus himself, received the Santa Barbara Beautiful Award for the Italian Stone Pines planted by Dr. Doremus and his friend and partner, Dr. Franceschi. She even mentioned Dr. Doremus by name in her remarks just months after members of her staff allowed the property's botanical species—planted by him—to be destroyed. Clearly, this office needs to be better informed, and steps must be taken to restore the property to its former beauty—within the street setback and the courtyard area—which likely would have come under real scrutiny, had the evaluation been done properly.

MITIGATION ALONG PARKWAY: The neighbors agree that re-shielding the buildings is a prime consideration, and suggest that one way to handle it is to add large and leafy street trees to the parkway area along Salsipuedes. The current landscape plan calls for low-lying water-resistant plants. But additional large street trees would certainly help repair the aesthetic and environmental damage. In addition, trees should be replaced in the rear of the building as viewed from Victoria Street, near the alley, where they were cut down—and a trash enclosure now stands in their place.

SUMMARY: Citizens of this neighborhood have no agenda here other than to restore proper equilibrium to this neighborhood, its natural environment, aesthetic appeal and pay proper respect to its cultural and botanical history.

The record is very clear that when the tree-cutting began the neighbors tried time and again to resolve it with the property management company, and were repeatedly told on the phone and in e-mails that all work was permitted and approved by the city. For several months we asked questions, asked for advance notification to schedule our days around the disruption. At no time did anyone question the veracity of what we had been told, nor were we informed that the matter was being reviewed at ABR, and regularly continued at consent with requests for the addition of more mitigating trees.

It was only when one of our neighbors had to swerve to avoid the small bulldozer as it was in the process of demolishing the rock wall on Salsipuedes that neighbors finally placed a call to get the city involved.

This sad episode has resulted in the squandering of resources, as well as the time, energy and goodwill of far too many well-meaning citizens, and the expenditure of hundreds of hours of staff time that should be put to better use. It is our sincere hope that the matter can be resolved in a positive way with the appointment of an ad-hoc committee that can carefully and expertly come up with solutions that address and repair the myriad issues raised by this unfortunate circumstance. In addition, we hope our serious and thoughtful suggestions will be considered carefully and implemented.