

City of Santa Barbara

January 10, 2013

To whom this may concern,

David Thornburgh;

My brother and I are in the process of selling my families house and property at 960 E. Mountain Drive. Our parents passed away last year, and during our research have found a license agreement between the City of Santa Barbara (Parks) and my father, for a portion of the driveway. See attached.

We would like to discuss the possibility to alter this license agreement so that a buyer can get insurance in the process of the purchase of our house and property. Can this document be changed to an easement for access to this house? This is the only access to the house.

We feel that this license agreement was agreed upon between our father and the City because of access to the Montecito Water Main and benefits all parties. You can see from the attached site plan, the location of the water main and fire hydrant. Montecito Fire Department has told use that they like access to our motor court for staging area during a wildfire.

We would like to work with you and City Parks as to how to resolve this issue.

Sincerely,

Michael White and Robert White


Michael A. White

SOPHIE CALVIN
969-0559
SOPHIECALVIN@GMAIL.COM

LICENSE AGREEMENT

THIS AGREEMENT, made and entered into this 13th day of January, 1965, by and between the CITY OF SANTA BARBARA, a Municipal Corporation organized and existing under and by virtue of the Constitution and laws of the State of California, hereinafter sometimes called "CITY", and RODERICK A. WHITE, of Santa Barbara, California, hereinafter sometimes called "OWNER";

WITNESSETH:

THAT WHEREAS, the City of Santa Barbara is the owner of certain real property situated in the County of Santa Barbara, and commonly referred to as Anna Gould Park, the deed for which was recorded on June 2, 1926, in Book 98, at page 302 of Official Records of Santa Barbara County; and

WHEREAS, Owner is the owner of certain real property lying southerly and adjacent to the southerly boundary of said Anna Gould Park, said real property being commonly referred to as 1090 East Mountain Drive, Santa Barbara, California; and

WHEREAS, the Montecito County Water District maintains for the use and accommodation of the Montecito County Fire Department, a certain fire hydrant situated upon the property of Owner; and

WHEREAS, presently there is no road or other access between Mountain Drive and the location of said fire hydrant which is traversable by mechanical or vehicular equipment of said Montecito County Fire Department, and so far as fire protection is concerned, said fire hydrant has been rendered useless; and

WHEREAS, the extensive brush and mountain fires of September, 1964, destroyed the residence of Owner together with shrubbery and natural growth in said Anna Gould Park in the area adjacent to said fire hydrant; and

WHEREAS, Owner is willing to construct and maintain an access road from Mountain Drive across a portion of Anna Gould Park for the purpose of providing access to said fire hydrant, and also for the purpose of providing access to his said property, said access road to be constructed over that portion of City owned property in Anna Gould Park described as follows:

That portion of the northwest quarter of the southwest quarter of Section 6, Township 4 North, Range 26 West, San Bernardino Base and Meridian, in the County of Santa Barbara, State of California, described as follows:

An easement for the installation, maintenance and repair or a driveway over that certain strip of land being fifty feet wide, the centerline of which is described as follows:

Commencing at a cross on a rock, being the most southerly point of a strip of land designated as "City of Santa Barbara" and shown on a map of the Florence Lowery Property, filed in Book 26, at Page 46 Record of Surveys in the County Recorder's office of said county; thence N. 89°03' W. along the southerly line of said "City of Santa Barbara" strip, 102.28 feet to the true point of beginning of the centerline herein described;

Thence, N. 37°55'30" W., 171.18 feet;

Thence, N. 11°06'30" W., 32.09 feet to a point which is 25 feet easterly of the westerly line of said "City of Santa Barbara" strip, (measured at right angles thereto);

Thence, N. 0°12'40" E., parallel with, adjacent to, and 25 feet easterly of said westerly line, 91.06 feet;

Thence, N. 36°50'30" E., 70 feet more or less, to intersect the right of way line of Mountain Drive, a public road.

The easterly and westerly lines of the herein described easement to be shortened or lengthened to intersect the right of way line of Mountain Drive on the north and the southerly line of said "City of Santa Barbara" strip of land on the south; and

WHEREAS, the Park Commission and the City Council of the City of Santa Barbara have considered the request of Owner, and have determined that said road can be constructed in said Park for the purposes aforesaid without detrimental or damaging effect to the public purposes for which said Park was originally dedicated to the City;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL TERMS AND COVENANTS HEREIN CONTAINED, AND FOR OTHER

GOOD AND VALUABLE CONSIDERATION, THE PARTIES HERETO
AGREE AS FOLLOWS:

I. Owner is hereby given a license to enter upon and into a portion of the Anna Gould Park for the purpose of constructing and maintaining an access road between Mountain Drive and the property owned by Owner over the driveway easement described above. The City, by and through the Director of Public Works of the City of Santa Barbara, shall have final and conclusive authority to determine whether or not the construction and maintenance of said access road has been constructed or maintained, or both, in accord with the sketch attached hereto as Exhibit "A".

II. Owner shall at all times maintain said access road in good condition and repair and, for such purpose, City retains hereby a continuing right to demand and receive, upon five (5) days notice, such action on the part of Owner as will cause such access road to be so maintained at the sole cost and expense of Owner.

III. Owner and City expressly agree that this license shall be revocable and terminable at any time upon thirty (30) days notice from City whenever the governing body determines by motion or resolution that said access road is not being maintained in a manner adequate for the traverse of fire equipment. Owner shall not be entitled nor shall Owner demand, assert a right to or make claim for any losses or damages of any kind or nature, because of, arising out of or due in any way to the revocation or termination of the license herein granted.

IV. It is understood and agreed that this license does not and was not intended to give Owner the right to construct, place or erect any other matter, structure or thing except such access road and incidental landscaping along the respective side lines thereof if the Director of Public Works of the City of Santa Barbara approves such landscaping.

V. Owner hereby promises and agrees to indemnify and hold harmless the City of Santa Barbara, its officers, agents and employees from any and all claims and demands whatsoever which may arise or

ATTACHMENT 1

hereafter arise, accrue or be made by or in behalf of any person whomsoever on account of or resulting from loss or damage attributable to or connected with said access road.

VI. This agreement shall be recorded, and each and every term, promise and condition thereof shall be binding upon Owner and upon Owner's heirs, successors, personal representatives and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be legally executed in duplicate, the day and year first above written.

CITY OF SANTA BARBARA,
a Municipal Corporation

By *W. D. ...*
Mayor

RODERICK A. WHITE

Roderick A. White

Approved and Countersigned:

Severus ...

Rayburn H. Wilson

Finance Committee

Approved:

Haley T. ...
City Attorney

U. S. GRANT & SON, CIVIL ENGINEERS

314 E. CARRILLO STREET, SANTA BARBARA, CALIF.

BY L.M.C. C.E.

SKETCH MAP

SHEET NO. 1 OF 1

CHKD. BY L.M.C.

PROPOSED DRIVE

TRACT NO. _____

DATE NOV. 1964

EASEMENT FOR R. HWY 101

JOB NO. 5090 P 514

AMENDED JAN 11, 1965

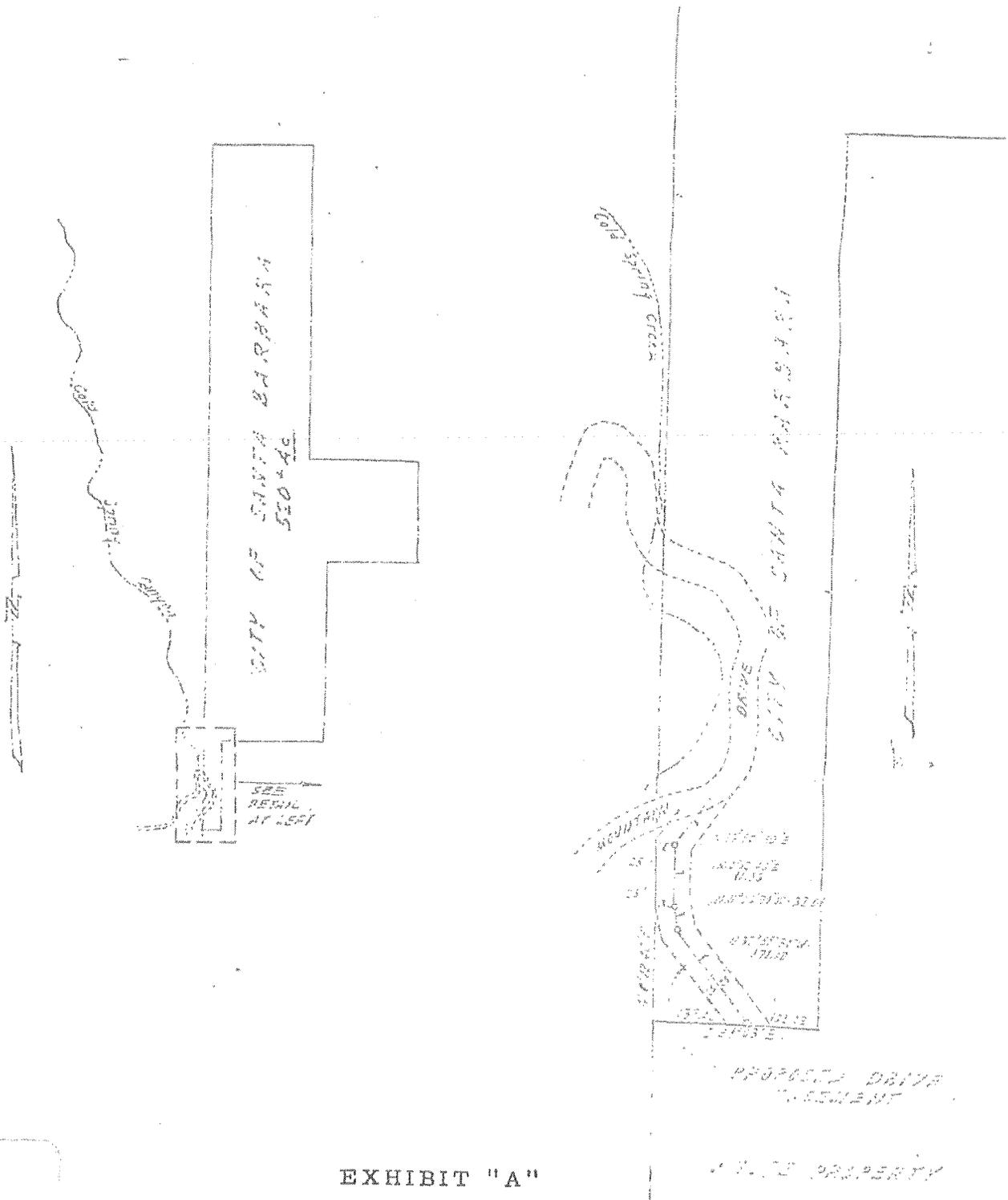


EXHIBIT "A"