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September 27, 2007

Mayor Marty Blum and Members of the City Council
City of Santa Barbara
City Hall
735 Anacapa Street
Santa Barbara, CA 93101

Steve Wiley, City Attorney
Office of City Attorney
749 State Street, Suite 201
Santa Barbara CA 93105
Via email and fax and hand-delivery

Re: HLC review of project at 517 Chapala Street.

**Dear Honorable Mayor Blum, Members of City Council and
City Attorney Steven Wiley:**

This letter brings to your attention the actions of the HLC on Wednesday, September 19, 2007 and to request that you take immediate and appropriate action to correct what were clearly procedural and substantive errors in the granting of a "preliminary approval" of a proposed plan without adequate information and drawings to know what is intended to be approved. In summary, as appears from the video of the September 19 meeting with 7 of 9 members present, a majority of the HLC had serious concerns with the elevations and various aspects of the size, bulk, scale, site design and building design. Not one Commissioner was ready to give an unqualified preliminary approval of the project drawings being reviewed. The 4-3 vote to grant preliminary approval, after a prior motion for preliminary approval with conditions failed on a 3-4 vote, calls for numerous revisions to be considered in the future. The nature and scope of the future revisions are not part of the public record. This piecemeal approval is contrary to HLC traditional handling of projects and is contrary to its adopted procedures and requirements. It restricts meaningful public review, may force multiple appeals. In addition, the processing, as stated below, reduces the role of HLC to a commission less important than the Planning Commission; not the role given to HLC by the voters.

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History of Review:

February 14, 2005: This project's initial application date appears in some city files. Significant to project review, the project is located next to historically significant Victorian buildings and the historically significant Brinkerhoff district. It is adjacent to a project under construction on the same block which, when combined with the proposed project, will appear to the public from Chapala street to be larger in size, bulk and scale than the other projects under construction which are causing serious questions and concerns regarding whether the standards of the City were appropriately applied

March 16, 2006: The mixed-use project proposed at 517 Chapala received a concept review by HLC.

July 13, 2006: Planning Commission's hearing date. The conditions of approval include design review requirements. The Planning Commission did not find the elevations and design acceptable. Its Resolution requires compliance with the Chapala Steet Design Guidelines. The City adopted the Chapala Street Design Guidelines on December 14, 2004. The Guidelines require consideration of impact on existing neighboring buildings. Page 10 of the Guidelines lists numerous historic and noteworthy buildings which would be negatively impacted by this development. Some of the design aspect considered unacceptable by the Planning Commission have not been satisfied by the plan reviewed on September 19, 2007.

It is important to remember that Planning Commission approval is in addition to and not a substitute for HLC's traditional and additional requirements as mandated by the City Charter and implemented in Chapter 22.22 of the Municipal Code. Until the changes required by the Planning Commission resolution and any further changes required by HLC are presented for review and approval, no preliminary approval is possible or appropriate.

Planning Commission review was more than 14 months ago. During that time, the City Council has appointed new members to HLC and many in the community, including HLC, Planning Commission, and City Council members have reacted negatively to size, bulk, scale and lack of neighborhood compatibility of projects under construction on Chapala Street. As a result there is occurring a needed change in project evaluation. This project has many of the same characteristics as projects under construction.

On September 19, 2007, the HLC continued its review from a prior meeting.

Contrary to the requirement of the City Charter, Chapter 22.22 of the Municipal Code and the Planning Commission's resolution, staff's comments to HLC, echoed in part by the vice chair and the applicant, strongly suggested to HLC members that it has limited authority to reject the size, bulk scale, site design or architecture after Planning Commission approval. Staff's comments were misleading and wrong. When the Urban Design Guidelines are taken into consideration, the project fails to meet the requirements for compatibility with the historic structures in the neighborhood, compatible and appropriate setbacks, landscaping provided on

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the project site (not on adjacent property), and design elements which do not have a negative impact on the adjacent Victorian buildings.

Eventually during the meetings on September 19, 2007, HLC engaged in a somewhat confusing progression from several straw votes against various elements of the proposed project to a failed motion (3-4) for preliminary approval. After further discussion about "process" and whether the HLC should be designing the project for the applicant, the vice chair entertained a new motion which included a preliminary approval which voiced prior concerns and required redesign of the Chapala Street elevation; leaving all of those important decisions regarding elevations, landscaping, site design and the very important Chapala Street frontage to be proposed and considered at future meetings. The motion did not include findings related to compliance with the Chapala Street Design Guidelines, Urban Design Guidelines, Chapter 22.22 of the Municipal Code and did not include any reference to compliance with the Environmental Quality Act. In view of the significance of the preliminary approval stage of design review of a project, if the preliminary approval is not determined by the City Council and/or the City Attorney to be invalid, appeal of the September 19, 2007 vote is the only way to protect from claims that the applicant has the right to proceed to submit for final approval based upon the preliminary approval. The motion for approval, absent actual designs, does not define the project. Another undefined part of the project is the proposed 40' by 40' blank wall next to the Victorian; a project design unacceptable to both the Planning Commission and HLC.

Other grounds for an appeal exist:

- The absence of an initial study and environmental review is not consistent with the Chapala Street Design Guidelines. HLC is not exempt from the requirement to review proper environmental information.
- Until the reviews and approvals required by Chapter 22.22 of the Municipal Code have been completed, no final approval of the project can exist.
- The upper levels of the project and the size bulk and scale of the project are directly contrary to the clear language of the Chapala Street Design Guidelines and the Urban Design Guidelines. A copy of pertinent pages of the Guidelines is attached.
- HLC has not articulated findings required by Chapter 22.22 of the Municipal Code.
- An adequate landscape plan has been promised but not provided. The project needs to provide the needed landscaping on its own site and should not rely upon neighboring properties, including the City, to attempt to soften the negative impact of the project.

At the September 19, 2007, Staff, apparently unduly concerned with the impact of a denial by HLC after a Planning Commission favorable vote, did not caution HLC of the problems of piecemeal preliminary approvals. As should be well known to staff and HLC members, a "preliminary approval" ties the hands of the HLC for future review of the project. It puts the HLC in the role of designing the project for the applicant instead of review of the design of the project. Preliminary approval is an important step in the review process and can only occur after review to determine compliance with zoning, general plan, basic building requirements, traffic flow, circulation requirements and all of the other elements within the purview of the HLC. Partial preliminary approval subject to future proposals is a flawed concept. Common sense

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suggests strongly that to approve a design, a committee must first be presented with drawings, designs and elevations deemed acceptable. A positive vote for unseen changes is contrary to the requirement that an applicant actually submit designs and drawings for review by the review body.

Based upon the above, we respectfully request that the City Council and its attorney take appropriate action to prevent the need for piecemeal and/or multiple appeals of the action(s) of the HLC.

Respectfully submitted,

A handwritten signature in black ink that reads "Tony Fischer". The signature is written in a cursive style with a prominent initial "T".

**Tony Fischer,
Attorney for Pat and Karen McFadden**

Attachment: Chapala Street Design Guidelines

through town. Both corners of the 500 block were developed with the then-fashionable L-shaped gas stations, housing Freeze and Freeze Auto Supplies, at Cota Street and the Fred Whaley/Firestone Tire building at Haley Street. Further north on Chapala Street were several garages, auto repair shops, and gas and oil shops.

In 1923, the Chamber of Commerce, with the backing of Charles Storke, the editor of the Santa Barbara News Press, put forth the idea of widening Chapala and Anacapa Streets, flanking the commercial State Street, into two dramatic boulevards which would lead to Cabrillo Street and the Pacific Ocean. This grand scheme was not realized, however; the Chamber of Commerce instead focused in 1924-1925 on widening Chapala Street from 60 to 80 feet from West Montecito Street to Victoria Street. At this time the present streetlights were added, an important historic streetscape element. The new width destroyed the more intimate scale of Chapala Street as a mixed use street, pushing it more towards commercial growth and development.

Currently the street is a mix of residences, concentrated in the 500 and 600 blocks, as well as used car lots, auto-related shops, commercial buildings, restaurants, and the two-block Paseo Nuevo. New mixed use residential and commercial development is slated for the south side of Chapala Street in the 400 block.

A number of historic buildings are located along Chapala Street between Montecito and Carrillo Streets. These are as follows:

1. 501 Chapala Street. 1895-6. Frank B. Smith House. Queen Anne. Eligible for the National Register of Historic Places, listed on the California Register of Historic Places, City Structure of Merit
2. 506 Chapala Street. 1930. Fred Whaley/Firestone Tire Store. Art Deco
3. 514-516 Chapala Street. 1875-76. Victorian duplex. City Structure of Merit.



4. 625 Chapala Street. 1875. Sherman house. Italianate. Eligible for the California Register of Historic Places, a City Structure of Merit

Potentially Significant Buildings

1. 317 Chapala Street. 1926. S. B. Tobacco Company warehouse and office. Spanish Colonial Revival. Soule, Murphy and Hastings. Eligible for the National Register of Historic Places, listed on the California Register

of Historic Places, on the City List of Potential Historic Structures

2. 430 Chapala Street (33-35 West Haley Street). 1926. Salvation Army building. Spanish Colonial Revival. Soule, Murphy and Hastings. Eligible for the National Register of Historic Places
3. 505 Chapala Street. 1887. Levy House. Italianate. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
4. 509 Chapala Street. 1887. Dancaster House. Italianate. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
5. 614 Chapala Street. 1946. George Young Chevrolet building A. Godfrey Bailey with Soule and Murphy. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
6. 900 Chapala Street. 1968. Charles Schwab. Brutalist Spanish Colonial Revival. Kruger, Bensen Ziemer. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
7. 911 Chapala Street. 1930, 1940. Hollister Estate Office and garage. Edwards and Plunkett. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
8. 919 Chapala Street. 1936. James D. Crawford building. Winsor Soule and J. F. Murphy. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures

Noteworthy Buildings

1. 428 Chapala Street. Casa de Sevilla
2. 510-512 Chapala Street (509 Fig Avenue) 1920, 1923. Thompson Court. Craftsman Bungalow Court.
3. 518-520 Chapala Street. 1908. Monterey. W. W. Varney. Architectural Advisory Committee for 1925 earthquake repairs.
4. 609 Chapala Street. c. 1905. Colonial Revival cottage
5. 721 Chapala Street. 1910 cottage.
6. 723-733 Chapala Street. 1919-1920. John E. Vince. George Haney builder
7. 735-739 Chapala Street. 1921-1922. John E. Vince. George Haney builder
8. 101 West Canon Perdido Street. Santa Barbara Telephone Company. 1928. Classical. Russell Ray

Alexandra C. Cole Preservation Planning Associates, 519 Fig Avenue, Santa Barbara, CA 93108 June 16, 2003



These guidelines recommend the installation of historic building markers. These sandstone pavers would be placed within the sidewalk and include information about the specific building incised within the surface of the paver.

Goals Of The Chapala Street Design Guidelines

The City of Santa Barbara Redevelopment Agency initiated the Chapala Street Design Guidelines in May 2003 to ensure that public improvements that occur as a result of Private Sector development of the Chapala Street corridor consisted of a unified theme that met the needs of current downtown residents and businesses. The Chapala Street Design Guidelines influence that area of Chapala Street south of Carrillo Street and north of Hwy 101. The overriding goals of the Chapala Street Design Guidelines are to:

1. Maintain Chapala Street as an important vehicular traffic route through downtown Santa Barbara.
2. Improve pedestrian safety at Intersections and street crossings.
3. Preserve the unique character of Chapala Street
4. Provide a unified theme, consistent with the City of Santa Barbara Urban Design Guidelines and the El Pueblo Viejo Design Guidelines, for the future development of Chapala Street.

The Chapala Street Design Guidelines are consistent with the City of Santa Barbara Redevelopment Agency's purpose to:

1. Encourage harmonious, environmentally compatible and economically efficient land uses throughout the Redevelopment Agency Area, thereby achieving functional, economic and visual order.
2. To coordinate such land uses and accompanying standards, controls and regulations with existing City controls and review processes.
3. To create economically viable central core that offers an attractive and pleasant environment.

The Chapala Street Design Guidelines are consistent with the City of Santa Barbara Urban Design Guidelines and the El Pueblo Viejo Guidelines that form the basis for decisions of the City of Santa Barbara Historic Landmarks Commission(HLC).

(Reference 1995 edition "Guidelines El Pueblo Viejo District", Santa Barbara, California)

The Chapala Street Design Guidelines are consistent with a set of general goals that define the major concerns and objectives of the City of Santa Barbara Historic Landmarks Commission. These goals are:

1. To safeguard the heritage of the City by providing for the protection of landmarks representing significant elements of its history;
2. Enhance the visual character of the City by encouraging and regulating the compatibility of architectural styles within landmark districts reflecting unique and established architectural traditions.

3. Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;
4. Strengthen the economy by protecting and enhancing the City's attractions to residents, tourists and visitors.
5. Promote the private and public use of landmarks and landmark districts for the education, prosperity and general welfare of the people;
6. Stabilize and improve property values within the City.

(Reference City of Santa Barbara Municipal Code - Chapter 22.22 Historic Structures , City of Santa Barbara, California, December 31st, 2000)

Guidelines Interpretation and Application

These Guidelines are designed to provide direction to Public Works, the RDA, private developers and to the public as a whole. Although failure to meet the Guidelines can form a basis for denial of a project, noncompliance with these Guidelines shall not be grounds to invalidate any action taken by the HLC, PC, or City Council nor shall such noncompliance constitute a cause of action against the City or its officers, employees or agents concerning any matter.

All questions regarding the proper interpretation and application of these Guidelines shall be resolved by the HLC or, upon appeal, the City Council.

The Santa Barbara General Plan contains policies and direction regarding the visual aspect of development, neighborhood compatibility, and landscaping. General and Coastal Plan policies and direction prevail over both the Zoning Ordinance and Design Guidelines.

Any project approved pursuant to the Chapala Street Guidelines shall be subject to environmental review.

The Zoning Ordinance contains many standards which plans must comply with. In using Design Guidelines, Code requirements prevail over guidelines. These Chapala Street Design Guidelines are intended to augment the Municipal Code by providing guideline details to complement topics in the Code, as well as to provide guidelines on topics not included in the Code.

In addition to the basic HLC Architectural & Landscape Guidelines, other guidelines for specific types of development and for specific areas of the City have been prepared with input from the HLC, Planning Commission, and others. The