



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 16, 2010

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Resolution To Record A Notice Terminating An Agreement Dated February 7, 1952, And Rescinding Title Covenants At 721-791 Chapala Street

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara to Record a Notice Terminating an Agreement Dated February 7, 1952, and Rescinding Title Covenants at 721-791 Chapala Street.

DISCUSSION:

The subject Agreement was created February 7, 1952, between the City and Henry Hazard, for the property then known as 111 W. De La Guerra Street and recorded in official County records at that time.

The Agreement provided for the removal of an existing driveway in order to construct a new driveway 22 feet in width at the front of the property. The Agreement also gave the City the right to have the driveway removed and the street curb restored to the original condition should it become necessary in the future.

The Agreement contained title covenants reflecting these provisions. The covenants were recorded against the property so as to "bind and inure to the benefit of the Parties hereto, their respective heirs, executors, administrators, successors and assigns." On February 13, 1952, the Agreement was recorded in Book 1049 at Page 24 of Official Records.

In 2004, the originally affected real property and other adjacent properties were merged and redeveloped by BDC Paseo Chapala LLC. The redevelopment included new street, curb, gutter, and sidewalk improvements along the portion of West De La Guerra Street affected by the Agreement.

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The existing title covenants have not been terminated and should have been in 2004, as part of the redevelopment and re-subdivision of the real property. An application has been submitted by BDC Paseo Chapala LLC to terminate the Agreement. The title covenants have been superseded by the redevelopment of the property, along with the new public street improvements, and it is no longer necessary.

Authorization by Council will allow for the recordation of the Notice in the Official Records in the Office of the County Recorder, thereby demonstrating the termination of the Agreement, and respective title covenants. This will remove the covenants from the property title and the public records as intended.

ATTACHMENTS: Copy of Agreement of Title Covenants dated February 7, 1952

PREPARED BY: Pat Kelly, Assistant Public Works Director/City Engineer/DT/sk

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office

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#4

AGREEMENT

THIS AGREEMENT, made and entered into by and between the CITY OF SANTA BARBARA, a Municipal Corporation duly organized and existing under and by virtue of the Laws of the State of California, hereinafter referred to as FIRST PARTY, and HENRY M. HAZARD, of Santa Barbara, California, hereinafter referred to as SECOND PARTY,

W I T N E S S E T H :

WHEREAS, Second Party is the Owner of that certain real property situate in the City of Santa Barbara, County of Santa Barbara, State of California, particularly described as follows, to-wit:

That portion of Block 194 in the City of Santa Barbara, County of Santa Barbara, State of California, described as follows:

Beginning at a point on the southeasterly line of De la Guerra Street, distant thereon 80 feet southwesterly from the intersection of said line with the southwesterly line of Chapala Street, as the same now exists; thence southwesterly along said line of De la Guerra Street 90 feet; thence at right angles southeasterly 225 feet to a point midway between the said line of De la Guerra Street and the northwesterly line of Ortega Street; thence at right angles northeasterly 45 feet; thence at right angles northwesterly 20 feet; thence at right angles northeasterly 45 feet; thence at right angles northwesterly 205 feet to the point of beginning.

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WHEREAS, Second Party has requested permission from First Party to close the existing driveway and open a new twenty-two (22) foot driveway entering said property at 111 West De la Guerra Street, and

WHEREAS, Second Party has agreed that if permission is granted by First Party to Second Party to cut said curb and install said driveway, as herein designated, for the purpose of ingress to and egress from said property, Second Party will, if the property be in the future abandoned from its present intended use, to-wit, a parking space for automobiles, then restore all of said curbs to the present condition if requested so to do by First Party.

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:

1. PERMISSION. First Party agrees that Second Party may cut the curb abutting said property, and install a driveway upon said property, in manner, location, and to the extent as follows: To cut the curb on De la Guerra Street at 111 West De la Guerra Street for a driveway entering said property extending for a distance of twenty-two (22) feet.

Said permission is granted to Second Party for the purpose of installing a driveway to allow ingress to and egress from said property of Second Party.

2. RESTORATION. Second Party hereby agrees that, in consideration of the permission herein granted to it by First Party, Second Party will proceed with cutting said driveway, at the location and in the manner and extent and for the purpose as set forth above; and

Second Party hereby further agrees that, in the

event that said property be in the future abandoned from its present intended use, then Second Party will restore said curb to its present condition, if, as and when requested to do so by First Party; and

Second Party hereby further agrees that, in the event it fails to so restore said curb within thirty (30) days after receiving written notice from First Party so to do, then First Party may restore the same and, upon presentation of bill showing the costs and expenses of said restoration work, Second Party will pay said costs and expenses of such restoration work; and in the event of Second Party's failure so to pay, First Party may collect the costs and expenses of said restoration work, by legal action, including a reasonable attorney's fee and court costs.

3. NOTICES. Any and all notices to be given by First Party to Second Party shall be given by sending the same by registered mail addressed to Second Party as follows: HENRY M. HAZARD, 115 West De la Guerra Street, Santa Barbara, California.

Any and all notices which may be given by Second Party to First Party shall be given by sending the same by registered mail addressed to City Clerk, City Hall, Santa Barbara, California.

4. SUCCESSORS. This Agreement is intended to and does bind and shall inure to the benefit of the Parties hereto, their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the Parties hereto have caused

this Contract to be legally executed in duplicate this
7th day of February, 1952.

CITY OF SANTA BARBARA,
a Municipal Corporation

By John M. Grayson Mayor
FIRST PARTY

Henry K. Hazard
Henry K. Hazard
SECOND PARTY

APPROVED AND COUNTERSIGNED:

Severat S. Woodland
Kenneth C. Nelson
Ernest W. Skenderup
Finance Committee

APPROVED:

John J. Rickard
City Attorney

The foregoing Contract is hereby approved this 7th
day of February, 1952.

John M. Grayson
Mayor

The foregoing Contract is hereby approved as to form
and legality this 7th day of February, 1952.

John J. Rickard
City Attorney

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.

On this 4th day of February, 1952, before me,
MADLINE VERGA, a Notary Public in and for
said County and State, personally appeared HENRY M. HAZARD,
known to me to be the person whose name is subscribed to
the within instrument, and acknowledged to me that he
executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed my Official Seal the day and year in this
Certificate first above written.

Madline Verga

Notary Public in and for the
County of Santa Barbara, State of
California.

My Commission Expires Aug 9, 1953

2081

RECORDED AT REQUEST OF

CITY CLERK

FEB 13 1952 at 9:13 AM

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OFFICIAL RECORDS

Santa Barbara County, Calif.

JAMES G. FOWLER, Registrar

[Signature] Deputy

FEE \$.00-FEE

PHOTOSTATED BY: *R. Thuren* Deputy, CHECKED BY: *J.G.* JAMES G. FOWLER, County Recorder