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May 30, 2007

Via email and U.S. Mail

Ms. Hadasa Lev, Project Manager
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95113

Re: PDC07-019 – Amendment of Zoning for Driveway Width

Dear Ms. Lev:

We represent the owner of 1625 Alum Rock Avenue, San Jose, California and wish to advise you of our intent to represent them at the public hearing on the above-referenced matter on June 5, 2007 in the City Counsel Chambers where we will oppose the new zoning. Our clients' building currently contains eight (8) residential apartment units and two (2) businesses which are operated daily. Our clients have owned their property for many years and operate their own business, Silveira Realty, out of the building.

I do not know if you are aware of the history of this area and the driveway in question, but I think an understanding of that history is key to understanding our opposition to the zoning change.

In late 1991 and 1992, the Redevelopment Agency of the City of San Jose entered into several agreements with our clients and their neighbors to construct and operate what became known as the Little Portugal Parking Lot. To build the lot, the Redevelopment Agency purchased 30 Eastwood Court from our clients and entered into a series of ground leases, including a ground lease with our clients.

The process of constructing the parking lot included, among many other things, the destruction of the home at 30 Eastwood Court, the destruction of a parking structure servicing 1625 Alum Rock Avenue, **the conversion of the existing driveway from Alum Rock Avenue servicing 1625 Alum Rock into a pedestrian walkway**, the construction of a wall blocking ingress and egress to or from Eastwood Court and the creation of a new driveway to be used by all of the adjacent property owners and businesses, which driveway was located between the property owned by the applicant and our client.

When the ground lease expired in 2002, it was not renewed. However, the property was not restored to its original state, such that the prior driveway located between 1625 and 1621 Alum Rock is still a pedestrian only walkway. In addition, the perpetual easement that was to be

granted to our clients across what had been 30 Eastwood Court, providing ingress and egress to our clients' property was never granted and, in fact, the wall erected blocking any access to Eastwood Court remains.

Also, following the end of the ground leases, the petitioner erected a fence on the property line between his property and our clients' property, effectively land locking not only our clients' property but several adjacent properties as well. Our clients have been able to ameliorate this problem by reaching a temporary agreement with another neighbor who has allowed the use of his property for ingress and egress to the parking lot. Unfortunately, that neighbor wants to end that arrangement and thus, as a result of the breach of the lease terms and the applicant's intransigence, our clients stand to be landlocked with no way for their residential or business tenants to access any off street parking, all as a result of their having cooperated with the Redevelopment Agency.

In contrast, the applicant has been approached on numerous occasions by our clients and others to seek a cooperative resolution to this problem, by both the applicant and our client agreeing to mutual reciprocal easements for ingress and egress over the driveway between the two properties. By simply agreeing to such an arrangement, the applicant would have no need to seek a zoning change as there would be ample room to construct a driveway under existing zoning requirements. Despite this apparent "win-win" option, the applicant has refused such an arrangement and now, seeks to have a driveway which benefits only his property, at the expense of the other neighboring properties, through his request for a zoning change.

Moreover, we understand that the City does not look favorably on restoring access to our clients' property by reopening the access to Eastwood Court or allowing the driveway on the other side of our clients' property to be reopened. As we understand it, the City has some concerns about both of those alternatives given the current tenor of the neighborhood. Thus, an arrangement between the applicant and our clients would also seem to be in the City's interest in looking out for the public benefit. Thus, we believe strongly that the City should deny the applicant's request for a zoning change as such a change would not be consistent with the best interests of the public as a whole, or even of the neighborhood as a whole, as much of the parking would be unusable.

Further, we believe that there are alternatives that the City should study prior to making any decision on the matter. For example, we believe that the City should study the possibility of taking the driveway by eminent domain for the public good. The cost to the City for taking such action would likely be minimal as our clients would readily grant their strip to the City and the cost for purchasing the applicant's strip will likely be minimal as he would be deprived of no use, other than exclusivity. Thus, cooperation by the applicant is not necessary to accomplish what clearly appears to be in the City's interest, which is to maintain the driveway for common use by all who like and work in the neighborhood.

As I said at the outset of my letter, we intend to present these, and perhaps other arguments to the City Counsel at the hearing next week. Please let me know if I need to bring any equipment in order to make a Powerpoint© presentation so that we may show graphically some of the issues I have tried to describe herein.

In the interim, if you have any questions or comments about this issue, I am readily available to you to discuss them at your convenience. We look forward to working with the City to reach a mutually agreeable and beneficial resolution to this problem.

Thank you very much for your consideration.

Very truly yours,

A handwritten signature in black ink that reads "Charles Bronitsky". The signature is written in a cursive style with a large, prominent initial "C".

Charles S. Bronitsky