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9 October 2017

Santa Barbara County Board of Supervisors
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**APPEAL OF PLAN REVISION FINAL APPROVAL BY PLANNING COMMISSION ON
SEPTEMBER 27, 2017**

Project Title: Golden Inn & Village
Case Number: 17RVP-00000-00046, 17RVP-00000-00071, 17RVP-00000-00072
APN Number: 141-380-014, 141-380-045, 141-380-046, 141-380-047
Date of Action: September 27, 2017

To the Santa Barbara County Board of Supervisors,

Our office represents Patti Stewart and Mark Brooks ["Aggrieved Parties"] who are property owners on Lucky Lane with lots adjacent to the Golden Inn & Village. Aggrieved Parties appeal the Santa Barbara County Planning Commission's 9/27/17 Final Approval of Plan Revision for the project because: (1) the final approval is inconsistent with prior discretionary approvals for this project; (2) the conditions of approval required to be completed were not completed before final plan approval (particularly lighting requirements and storm water control plan); and (3) the approval effectively endorsed irregularities in public notices that violate Santa Barbara County ordinances 35.106 (Notice of Public Hearings). This appeal is brought pursuant to Santa Barbara County Code, Chapter 2, Article XIV §2-100 and California Code of Civil Procedure §1094.6.

While this project presents multiple opportunities to seek administrative mandamus with obvious breaches of County ordinances like the 2/25/15 issuance of a permit revision to approve in excess of 6,220 additional square feet to the project's buildings plus 1,100 additional square feet to the project's trellises [NOTE: the Santa Barbara County Code generally only allows the *lesser* of 1,000 square feet or a 10% deviation to be approved]; and the fact that the buildings are in excess of maximum approved heights, the purpose of this appeal is to reverse the Planning Commission's Final Approval of the Plan Revision in order to allow the Aggrieved Parties and their undersigned counsel to resolve two main concerns of neighbors (light trespass from 20' lights instead of the approved 8' lights; and storm water runoff from the project due to a lack of proper retention and diversion). The Applicant and its representatives, have repeatedly misled Commissions concerning the impact upon the neighbors and the feedback from the neighbors, but this counsel hoped a resolution could be reached prior to issuance of the Planning Commission's Final Approval of a significantly different project that that which was originally planned and approved. Now, Aggrieved Parties request a reversal of that Final Approval to allow

for amelioration of these two conditions that significantly impact the neighbors in a manner inconsistent with the Santa Barbara Development Code.

Review of this project, including documents provided pursuant to Public Records Act requests, reveals a troubling history of obfuscation, rushed approvals to procure project funds, and failure to abide reasonable mitigation efforts to protect neighbors from light trespass and storm water runoff. Examples of irregularities include the presentation of multiple versions of plans to different commissions (including three different versions of plans stamped approved on March 4, 2015), inconsistent reference to the project in public notices which denied the Aggrieved Parties due process, and the fatal lack of a Storm Water Control Plan (SWCP) on the date the project was initially approved. While Aggrieved Parties have consistently cooperated with Applicant to withhold dissents and/or appeals in exchange for Board of Supervisors' Conditions of Approval that would have ameliorated these problematic conditions, the Planning Commission's 9/27/17 final approval of the plan revision substantially changes these Conditions of Approval by deleting, editing, and/or waiving them in favor of the project as built rendering a finding that results in a denial of due process to Aggrieved Parties. The Board of Supervisors should reverse the Planning Commission's 9/27/17 Final Approval of Revised Plans for this project until and unless the light trespass is abated and the storm water runoff is more effectively retained or diverted to protect the neighbors.

The Aggrieved Parties have a significant amount of evidence including a detailed chronology revealing development approval irregularities including different plans that were presented and how they differ from plans that were approved, the lack of reference to the Conditions of Approval on necessary documents (like the grading permit), and proof that these two conditions (light trespass, storm water runoff) have been ignored in an effort to meet funding deadlines. This evidence includes testimony given by Applicant with comments from the various Commissions in transcripts from the following meetings: 5/14/14 Planning Commission hearing; 10/10/14 CBAR hearing; 12/12/14 CBAR hearing; 7/8/16 CBAR hearing; 8/30/17 Planning Commission hearing; and 9/27/17 Planning Commission hearing. The gist of this evidence is that the Applicant claimed the 8-foot tall light posts identified in the approved plans but installed at 20-feet was an oversight, and that the storm water runoff would be abated by Applicant when concerns were raised by the reviewing authorities. In the interest of being concise, that evidence is not included in this letter but may be referenced at the hearing or at a subsequent litigation if this appeal is denied. A brief overview of the two main issues Aggrieved Parties are concerned by in the Planning Commission's approval of Final Plan revisions on 9/27/17 appears below:

- I. Light Trespass: The Santa Barbara Development Code §35.30.120 (C)(4) defines prohibited lights and lighting to include: "b. All outside illumination for aesthetic and decorative purposes that is not fully shielded (full cutoff) shall be prohibited between 9:00 p.m. and sunrise the following day" and Aggrieved Parties contend that to the extent the lights installed at this project illuminate the building rather than walkways, they are aesthetic and decorative only and should be prohibited from 9:00 p.m. until sunrise each day. Furthermore, §35.30.120 (C)(6) General Requirements provides "(a) All outdoor light fixtures...shall be fully shielded (full cutoff);...(c) Light trespass and glare shall be reduced to the maximum extent feasible through downward directional lighting methods." and §35.30.120 (C) (7) Submittal of plans and evidence of compliance, requires "Any application for a permit that includes outdoor light fixtures...shall include evidence that the proposed outdoor lighting will comply with this Subsection C. The application shall include: a. Plans showing the

locations of all outdoor lighting fixtures... and [a description of the lighting including beam angle and shielding]. The above plans and descriptions shall be sufficiently complete to enable the plan examiner to readily determine whether compliance with the requirements of this Subsection C have been met.” When this project was first proposed, in an April 24, 2014, letter to Dana Eady, the developer indicated at paragraph “2.9 Project Lighting – The applicant is proposing 8-foot tall, post-mounted light fixtures throughout the parking areas” and noted they would be “protecting the naturally-dark quality of the neighborhood.” The approved plans and Conditions of Approval included 8-foot fixtures but the developer installed 20-foot tall, post-mounted light fixtures throughout the parking areas which have illuminated the building to an unacceptable degree and caused light trespass to the neighbors. Aggrieved Parties have worked diligently with Applicant to resolve this issue and rather than demanding the light posts be lowered consistent with the approved plans to 8-foot (or something between 8-foot and 20-foot), they have agreed to work toward less expensive remediation. With the Planning Commission’s 9/27/17 Final Approval of plan revisions, Applicant will not be required to take further ameliorative actions to address this light trespass which represents a material deviation from the approved project. Such a retroactive revision denies Aggrieved Parties due process because they did not have an opportunity to protest the installation of 20-foot lights which were not reflected on the approved plans or Conditions of Approval. Aggrieved Parties merely request that this appeal be granted so as to reverse the Planning Commission’s 9/27/17 Final Approval of revised plans to allow an opportunity for counsel to resolve this light trespass prior to Final Approval.

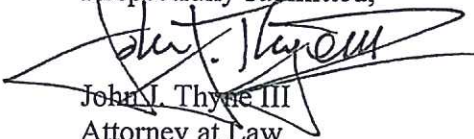
- II. Storm Water Runoff: Santa Barbara County Development Plan §35.30.180 requires a storm water runoff mitigation for new development. In its initial application, and as a Condition of Approval, Applicant indicated “Storm water run-off generated from this development will be directed through an on-site storm drain system into a detention basin. Discharge from the basin will be a metered (controlled) outflow, consistent with the predevelopment conditions.” and “A portion of the off-site storm water coming from the north will be detained, along with the on-site storm water, to help reduce peak storm flows to the south of the project.” At the 5/14/14 Planning Commission hearing, it was misrepresented that the necessary storm water control plan had been submitted to the County, which is a necessary document to procure initial approval. Despite multiple Public Records requests, the County has failed to ever produce a storm water control plan contemporaneous to the initial Planning Commission plan approval because, Aggrieved Parties assert, that necessary document was not actually presented to the County at the time. This renders the initial plan approval on 5/14/14 improper. On 3/5/15, a grading permit was issued but did not have the Conditions of Approval listed on it as is required (another example of a denial of due process). The current drainage has not been approved by the Board of Supervisors. Aggrieved Parties live south of this project and on 2/18/17 because the GIV drainage system was not built as was required by the Board of Supervisors on 6/17/14, for only the second time in sixteen years, Lucky Lane flooded after receiving 40% less rain than the last flood which was more than a decade and a half ago. On June 1, 2017, the Central Coast Regional Water Quality Control Board wrote to the County informing the County that it is potentially subject to penalties of \$25,000 per day because the storm water runoff of the Golden Inn and Village was not built

pursuant to approved plans as it relates to SCM's which violated the PCR Performance Requirements 2 + 3. Applicant contends it has solved this problem but that is not correct. Aggrieved Parties can show that the SWCP implemented by Applicant does not sufficiently retain or properly divert runoff from the property to the north of the project (YMCA) as was promised and required, nor does it adequately address storm water runoff from the project itself. Once again, however, Aggrieved Parties have a reasonable solution that has not been accepted by Applicant. The installation of a "Texas crossing" which would allow for appropriate dissipation and disbursement of storm water, so as to prevent another flood like the recent one experienced by Aggrieved Parties due to this project, would be the most efficient and effective solution. Instead, Applicant recommended, completely at odds with their stated commitment to address the storm water runoff, that Aggrieved Parties increase their own culverts to divert water to the downstream neighbors. Because Aggrieved Parties, unlike Applicant, are concerned with exacerbating conditions to their south, they have not agreed to this recommendation. Aggrieved Parties request that this Board of Supervisors reverse the 9/27/17 Planning Commission Final Approval of Plan Revisions to allow the Aggrieved Parties to continue to work with Applicant in order to solve this issue.

Kindly note this is an overview of the Aggrieved Parties' explanation of why this project should not have received Final Approval of Revised Plans at the 9/27/17 Planning Commission hearing, and not a comprehensive recitation of the overwhelming evidence that, at the very least, this Final Approval should be reversed due to the issues surrounding construction that is inconsistent with approved plans and Conditions of Approval (particularly with respect to light trespass and storm water runoff). It is not the intention of Aggrieved Parties to unreasonably delay Final Approval, however, that should not occur until these conditions are remedied and the project is revised in accordance with the spirit, at least, of the Conditions of Approval and the approved plans. In the event Aggrieved Parties are unsuccessful in this request for a reversal of the Planning Commission's 9/27/17 Final Approval of Revised Plans, then Aggrieved Parties reserve their rights to address all of the improper actions related to this project including the approval of over 7,000 additional square feet without submission of a publicly noticed application for revision and additional plans (which may have afforded another opportunity to address the lights and storm water runoff), and the inconsistent manner in which this project was described in public notices, thus causing a deprivation of due process.

We hope this Board of Supervisors recognizes the project is not consistent with the approved plans and the Conditions of Approval, and thus reverses the Planning Commissions 9/27/17 Final Approval of Revised Plans (changing the lights from 8' to 20' and allowing the inadequate diversion and retention of storm water runoff). If so, Aggrieved Parties will diligently work with Applicant to address these two matters and hopes to support the subsequent approval by the Planning Commission.

Respectfully submitted,



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cc: Patti Stewart, Mark Brooks