

29A

CITY OF SACRAMENTO



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STEPHEN B. NOCITA
DIANE B. BALTER
CHRISTINA PRIM
DEPUTY CITY ATTORNEYS

March 24, 1982

APPROVED
BY THE CITY COUNCIL

MAR 25 1982

OFFICE OF THE
CITY CLERK

Honorable City Council
City of Sacramento
City Hall
Sacramento, California

In re: Status of Diepenbrock
Mansion Proposal

Members in Session:

SUBJECT

This report is forwarded to the City Council on the status of the proposed settlement agreement for the block bounded by 23rd Street, 24th Street, L Street and Capitol Avenue owned by the First Baptist Church.

SUMMARY

On July 7, 1981, the City Council adopted a Resolution of Necessity (81-511) to acquire the property commonly known as the Diepenbrock Mansion. Negotiations between Marty Van Duyn, Lee Savage and G. Richard Brown resulted in what, at that time, appeared to be a compromise acceptable to all parties. Subsequently, substantial objection was raised to this compromise. At present, the City staff and the First Baptist Church are prepared to execute the compromise. However, other parties concerned are not willing to do so and have made an alternate proposal. The alternate proposal is not acceptable to the First Baptist Church.

BACKGROUND

A report from Richard Hastings to the City Council dated May 27, 1981 is attached. This report summarizes the pertinent background leading to the adoption of the Resolution of Necessity to acquire the property commonly known as the Diepenbrock Mansion at 2315 Capitol Avenue. The Resolution of Necessity was adopted by the City Council on July 7, 1981.

During the next several months after July, 1981, there were discussions between G. Richard Brown, attorney for the First Baptist Church, Lee Savage and Marty Van Duyn. These negotiations resulted in a new proposal for a master plan.

Lee Savage met with the Sacramento Old City Association Board of Directors on November 12, 1981 with the then current master plan proposal. Three persons were present who were neighbors concerned with the master plan. At that meeting, several concerns of the neighbors regarding past events were advanced. There were two major proposals from that meeting. The first was that the Diepenbrock Mansion be preserved on site using private funds, and that the other priority structure on the block, the Armour House, be moved from its site immediately west of the Church building to a site immediately west of the Diepenbrock Mansion. The Armour House would be preserved using private funds. Both structures would be zoned RO to make it financially feasible to preserve them. The remaining structures would be moved or demolished to make room for an office and social hall at the corner of 24th and L Streets. The second major proposal was that no structure would be moved or demolished until funding was available for the preservation of all structures. My understanding was that funding or private contracts would be available to accomplish the preservation and moving of the Diepenbrock Mansion and Armour House as a condition of any moving or demolition of structures. Apparently, a few persons understood the proposal to be funding for the entire master plan including all new construction (the offices and the social hall). This would not have been practical in that there would have been a substantial delay in preservation of the structures which are already delapidated.

Further discussions resulted in a new proposal by the Church. The Church agreed to funding the preservation of structures as a condition precedent. The Church proposed moving the Diepenbrock Mansion from Capitol Avenue to L Street, rather than moving the Armour House to Capitol Avenue. The social hall would then be constructed in approximately the center of the block. The proposal is generally described on the attached map.

I discussed this proposal with the president and the president-elect of the Sacramento Old City Association on December 23, 1981. The next week I met with the new Board of Directors of the Sacramento Old City Association. Three persons from the immediate neighborhood were present. After much discussion, during which a good deal of reservation was expressed, a resolution was passed not to oppose the latest proposal by the Church. Subsequently in January, 1982, I met with the Council and the Planning Commission to report the results of the negotiations.

On February 11, 1982, a letter from Gerald P. Harrington purporting to represent the L Street Association and local residents was received. The letter expressed firm opposition to the master plan. On February 17, 1982, I received a letter from James Cathcart, President of the Sacramento Old City Association, indicating support for the local residents. Copies of each of these letters are attached. The Church expressed disappointment at this turn of events as reflected in the letter of March 3, 1982 attached.

Honorable City Council
March 24, 1982
Page Three

At this point in time, the Church is still willing to enter into an agreement reflecting the compromise proposal as stated in the attached letter. I am advised by the Sacramento Old City Association that they are willing to negotiate based on the proposal set forth in the February 19, 1982 letter. This is not acceptable to the Church.

RECOMMENDATION

No recommendation is made by this office. The City Manager and the Planning Director recommend the compromise. The stipulation between the attorney for the Church and the City Attorney's office expires April 7, 1982.

Respectfully submitted,


LELIAND J. SAVAGE
Deputy City Attorney

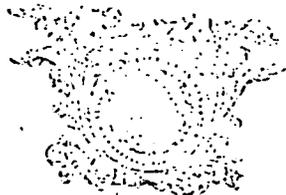
LJS:kn

Attachments

For City Council Information


WALTER J. SLUPE
City Manager

District 4



CITY OF SACRAMENTO
CITY MANAGER'S OFFICE
RECEIVED
MAY 27 1981

CITY PRESERVATION BOARD

SACRAMENTO, CALIF. 95814
TELEPHONE (916) 448-5504

May 27, 1981

City Council
Sacramento, California

Honorable Members in Session

SUBJECT

Recommendation by Preservation Board that City acquire 2315 Capitol Avenue (Diepenbrock Mansion) through the power of eminent domain. Authorizing Giving of Notice of Intent to Adopt Condemnation Resolutions - E 1/2 Lot 7, block bounded by L Street, Capitol Avenue, 23rd and 24th Street, City of Sacramento, California.

SUMMARY

The demolition suspension on 2315 Capitol Avenue will expire in June, 1981. This structure is an essential building on the City's Official Register. The Preservation Board has voted to request the Council to acquire the property and building to prevent demolition. Funds for this project could come from various CDBG sources. The property and building would then be sold for rehabilitation with the City retaining a historic facade easement. Staff recommends adoption of the attached Resolution Authorizing Giving of Notice of Intent to Adopt Condemnation Resolution.

BACKGROUND

In December 1980, the City Council passed a resolution extending the demolition suspension on 2315 Capitol Avenue for 180 days. (Resolution No. 80-799). The Council based its decision on the vote and recommendations of the Planning Commission and the Preservation Board. The Commission and Board were in favor of an extension of the demolition suspension in order for the city and the church to work out mitigation measures which would allow the church to expand their parking facilities and the city to retain the Diepenbrock Mansion, which is an essential building on the City's Official Register. The Commission had requested that the Baptist Church during the 180 day suspension period develop an overall master plan for all church property. The church was then to return to the Planning Commission with the master plan and any request for special permits needed. The Planning Department received revised master plan drawings for the church facilities on March 6, 1981. The Planning Department's Environmental Section reviewed the master plan and special permit requests. The Environ-

mental Section required additional information from the church. The church submitted that additional information on May 18, 1981. The Environmental Section is now reviewing the church master plan and the additional information to determine whether an EIR will be required for the scope of work proposed. In any case, the Planning Commission will not review the church's master plan until after the demolition suspension on the Diepenbrock building has expired.

During the last 180 days, City staff has met with the church and other interested groups concerning the building. All inquiries by developers or interested persons have been forwarded to the church. Unfortunately, no final agreement was made between any of the developers and the church. Therefore, as potential demolition draws closer, no viable proposal for the buildings rehabilitation is pending. This situation has left the Preservation Board no alternative but to vote to request that the Council through eminent domain acquire the Diepenbrock structure.

The Preservation Board on April 27, voted "to recommend to City Council that the City use the power of eminent domain to acquire the Diephenbrock Mansion for the purpose of placing it under the control of Sacramento Heritage Inc. to solicit proposals from the private sector for the restoration of the building on-site and/or to consider acquisition of the adjacent vacant parcel to the west for relocation of the Diepenbrock Building."

Sacramento Heritage Inc.; at their meeting of May 21, passed a motion unanimously by those present to accept the Diephenbrock Building should the City Council choose to acquire the structure and property. Once the City has acquired the property and building then it could be turned over to Sacramento Heritage Inc.

Funds for purchase would be available from the following sources:

- | | |
|--|-----------|
| 1. Preservation CDBG Fund | \$ 16,000 |
| 2. Sale of 1010 "F" Street
(This Preservation Board money should be available by September, 1981) | 50,000 |
| 3. Sale of 517 - 8th Street
(This money should be available by July, 1981 and would need to be approved by Sacramento Heritage Inc. Board of Directors) | 57,000 |

POTENTIAL TOTAL.	<u>\$123,000</u>
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Sacramento Heritage Inc. would hold an auction as soon as possible after the City had acquired the property and building. The sale of the property would be conducted in a manner similar to those for 1010 "F" Street, 517 - 8th Street, and 925 G Street with the City retaining a historic facade easement. The money returning to the City from the sale would then be dispersed back to Sacramento Heritage Inc. and the Preservation Board to be used for other Preservation needs. If other CDBG funds were needed they would be reimbursed at this time.

Staff is requesting the Council at this time to only consider acquisition of 2315 Capitol Avenue for rehabilitation on site. (See A under Financial Data). Should negotiations with the church deem it necessary, staff may return to Council with a proposal to relocate the structure to an adjacent vacant parcel. (See B under Financial Data).

FINANCIAL DATA

A. Acquisition on Site:	(Approximate)
Building and parcel	\$100,000
Sacramento Heritage overhead	5,000
	<u>\$105,000</u>
B. Relocation to Vacant Site:	(Approximate)
Vacant Parcel	\$ 40,000
Building move	10,000
Value of building	10,000 to 20,000
Foundation plans	1,000
Foundation work	5,000
Sacramento Heritage overhead	5,000
	<u>\$ 81,000</u>

VOTE OF BOARDS

The Preservation Board voted to recommend that the Council acquire the Diepenbrock Mansion. The vote was six ayes, one no, one abstain, and one absence. (See attachment No. 1) Sacramento Heritage Inc., voted to accept the Diepenbrock should the City acquire the structure. The vote was three ayes and two absent. (See attachment No. 2)

RECOMMENDATION

It is recommended that the attached Resolution Authorizing Giving of Notice of Intent to Adopt Condemnation Resolution be adopted.

Respectfully submitted,

Richard B. Hastings

Richard B. Hastings
Preservation Director

For Transmittal to City Council:

Walter J. Slipo

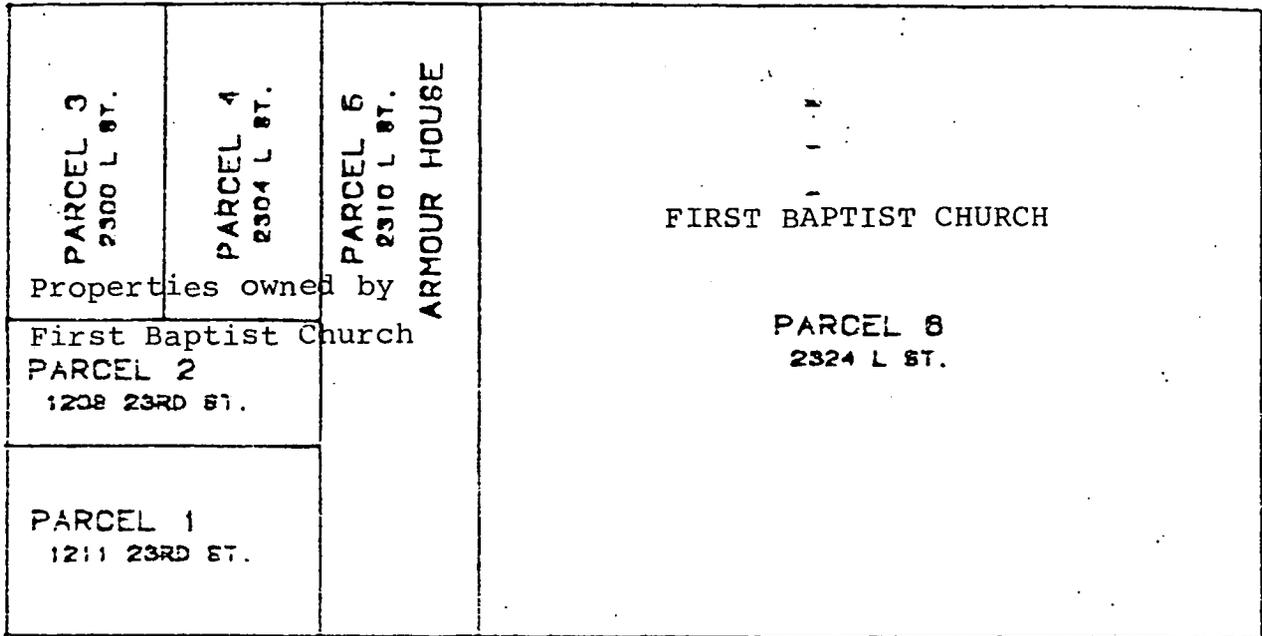
Walter J. Slipo
City Manager

RBH:kk
Attachments

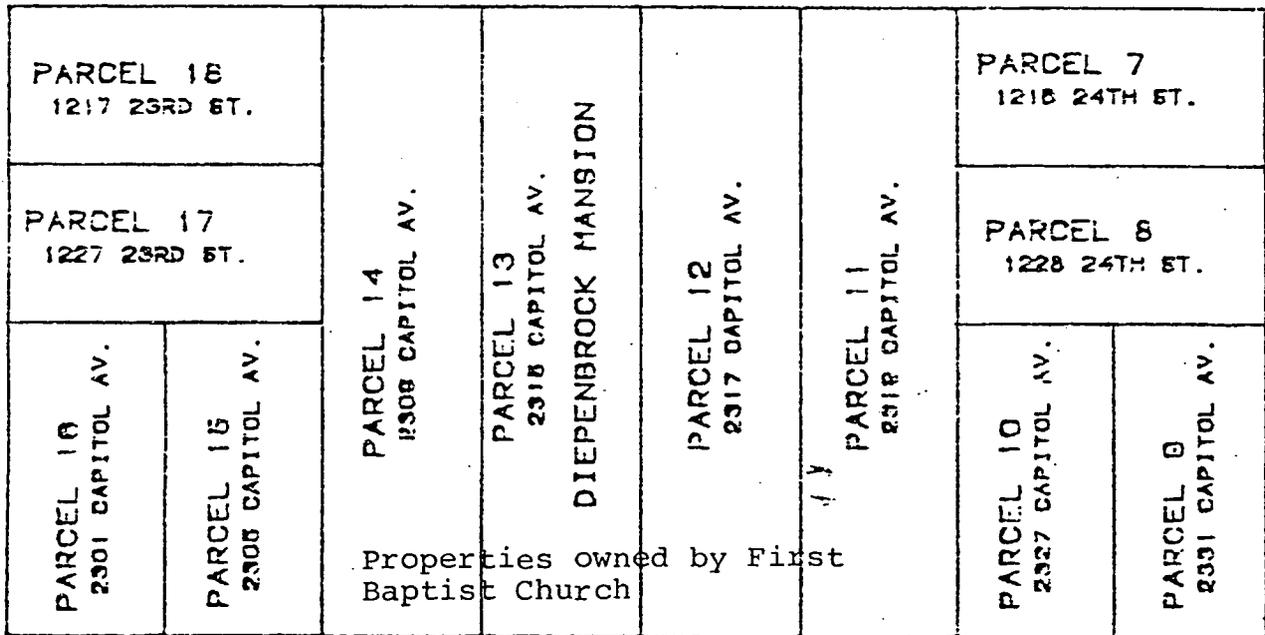
June 2, 1981
District No. 4

L STREET

MAP SHOWS EXISTING SITUATION. PROPOSED COMPROMISE EXPLAINED BELOW.



BLOCK 155



CAPITOL AVENUE

Details of Compromise

1. Armour House (Parcel 5) would be preserved on site.
2. Diepenbrock Mansion would be moved to Parcels 2, 3 and 4 and preserved.
3. Social Center would be built on a portion of Parcels 11, 12 and 13 near the alley.

23 RD STREET

24 TH STREET

1216 - 24th Street
Sacramento, California 95816
Telephone: 442-8600 (Home)
446-5207 (Office)

February 19, 1982

RECEIVED
FEB 19 1982
CITY ATTORNEY'S OFFICE

The Honorable Phillip L. Isenberg
Mayor of Sacramento
City Hall, Room 202
Sacramento, California 95814

Dear Phil:

As promised, here is a proposed SOCA - L Street Association Development Plan for the properties owned by the Baptist Church. First of all, we are sorry for coming forward seemingly at the last minute, but for some reason the neighborhood seems to have been uninformed about the rapid developments which took place between the Church and the City. We appreciate your accommodating attitude in giving us time to present this plan and hope it will be seriously considered by all parties involved in the negotiations.

Our plan offers the following features:

1. Maintenance of the integrity of the central City plan.
2. Maintenance in the maximum possible manner of the block faces on L Street, Capitol Avenue and 23rd Street.
3. Provides for the stated expansion needs of the Church with what we would believe is ample parking.
4. Improves the financial condition of the Church so that they may rapidly complete their development plans by making available for sale three structures.
5. Makes federal financing possible for the Diepenbrock by maintaining the building on site.
6. Resolves the pending problem of the school operated in the Church. In regard to the school, we feel this is a major concession from the neighborhood and took a lot of soul-searching by the people involved. However, we feel that maintaining the neighborhood as a residential area is important enough to trade off for the continued operation of the school.
7. Provides contiguous lots for parking.

The Honorable Phillip L. Isenberg

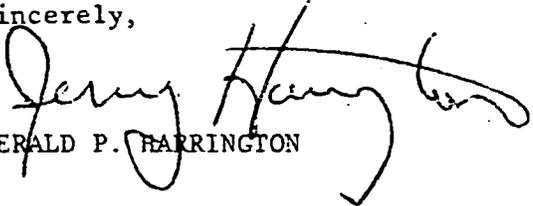
Page 2

February 19, 1982

We believe this is a reasonable offer, but we have a little different point of view because we live downtown, work downtown, shop downtown and raise our families downtown. We don't view the central City strictly as a place to come for a few hours to conduct business, be it commercial, social or religious. We ask you to view this development as if it were being proposed near to your home.

Thanks very much for your patience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerald P. Harrington".

GERALD P. HARRINGTON

GPH: jkk

Enclosures

cc: City Council Members

Lee J. Savage, Deputy City Attorney

February 19, 1982

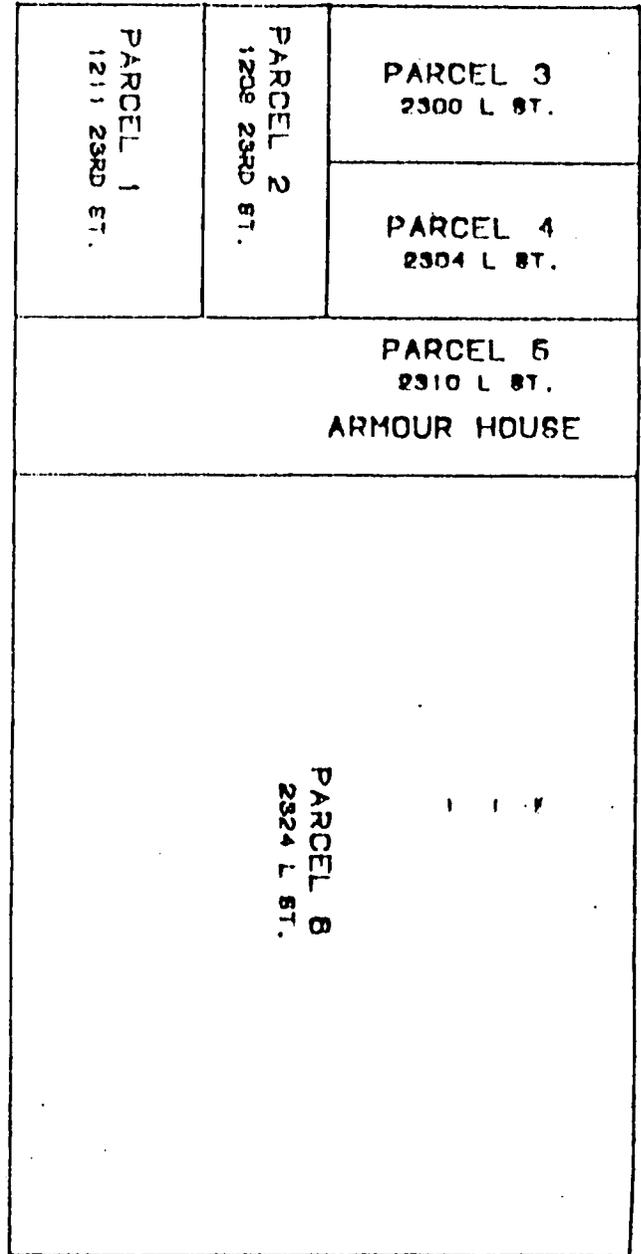
SOCA - L STREET ASSOCIATION DEVELOPMENT PLAN

ALL REFERENCE IS TO ASSESSOR'S PARCEL MAP BOOK 7, PAGE 15

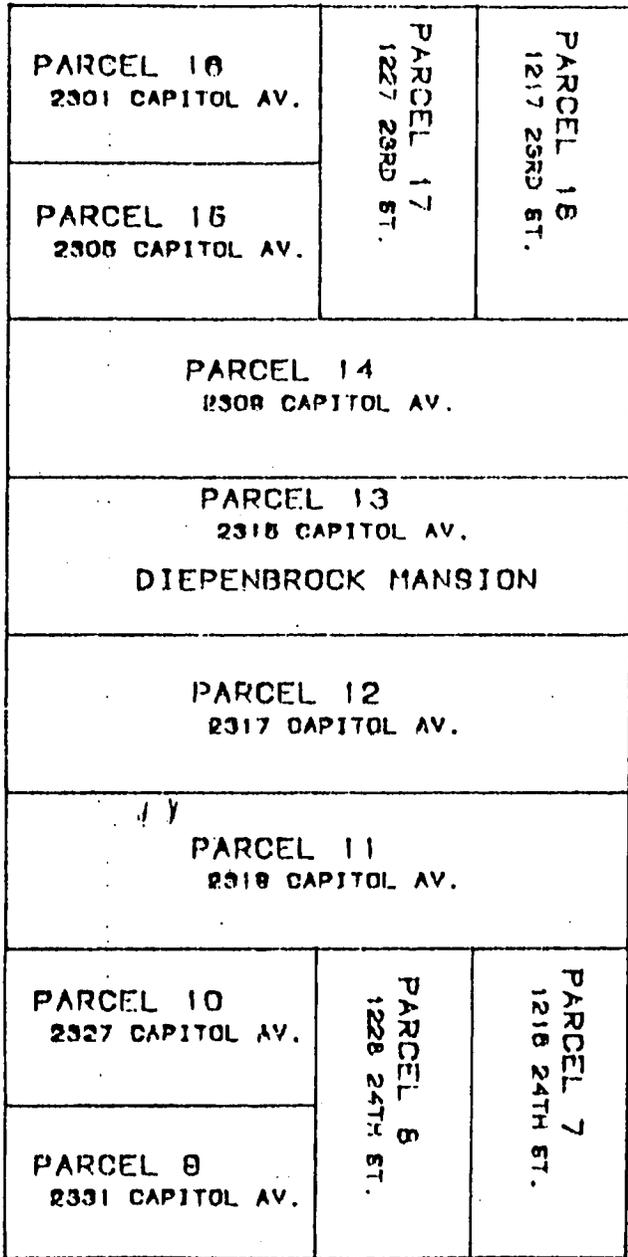
1. Diepenbrock remains on site with a side yard (taking the front portion of Parcel 14 for the same footage lost for back portion of Parcel 13); reciprocal parking agreement possible;
2. Diepenbrock rezoned to RO;
3. The house on Parcel 4 (2304 L Street) moved to a location in downtown Sacramento to be sold for rehabilitation;
4. The Armour house (2310 L Street) now located on Parcel 5, moved to Parcel 4 and rezoned RO or OB;
5. Church office addition built on Parcel 5. This addition to be architecturally compatible with existing church/neighborhood facade;
6. Items 3, 4, and 5, described above, made as one move. At no time will Parcel 5 be used as interim parking;
7. Parcels 2 (1209 - 23rd Street); 3 (2300 L Street); and 4 (2304 L Street); and 18 (1217 - 23rd Street) remain zoned R3A; maintained in good condition or sold for retention on site.
8. Social Hall constructed to face Capitol Avenue on the front half of Parcels 11 and 12. Social Hall to be architecturally compatible with existing church/neighborhood facade. Once construction has started, it must be completed within three years;
9. Center portion of alley abandoned for Church's use, leaving access on 23rd and 24th Streets open for Parcels 1 and 7's ingress and egress;
10. Appropriate landscaping provided to eliminate unnecessary dust and noise from parking/social hall/office areas;
11. School to be permitted and operated only as a school and not a day-care center. Maximum hours per day limited to eight. Enrollment not to exceed enrollment as of January 1, 1982;
12. Expanded negative declaration instead of EIR only if all conditions of this agreement are accepted.

23 RD STREET

L STREET



BLOCK 155



CAPITOL AVENUE

SACRAMENTO COUNTY

24 TH STREET



SACRAMENTO OLD CITY ASSOCIATION

Dedicated to the Preservation and Beautification of Old Sacramento

February 17, 1982

Lee Savage,
Deputy City Attorney
City of Sacramento
City Attorney's Office
812 10th Street
Sacramento, CA 95814

On Wednesday, February 10, 1982, The SOCA Board rescinded its previous position on the Compromise Plan being negotiated between the City and the Baptist Church with respect to the Diepenbrock Mansion and the surrounding properties. The Previous position of SOCA was not to oppose the Compromise Plan as represented by yourself on behalf of the City SOCA has appointed a committee to offer an alternative to the present negotiated plan. SOCA is working in conjunction with the L St Association. The plan is expected to be presented to the City by February 23, 1982.

When SOCA Board reconsidered its previous action, it had done so because Board Members believed that when they took the action to not oppose the compromise plan they were not fully aware of all the issues involved. At that time they expressed their appreciation of your efforts, and the City's efforts at attempting to come up with a solution to this important issue.

I, and SOCA Board members recognize the difficulty in dealing with the Baptist Church, and again applaud your efforts on behalf of the City.

JAMES A. CATHCART
President

cc: Phil Eisenberg, Mayor
Ann Rudin, City CouncilWomen

JAC:kjw

McDONOUGH, HOLLAND & ALLEN
A PROFESSIONAL CORPORATION
ATTORNEYS

555 CAPITOL MALL, SUITE 950
SACRAMENTO, CALIFORNIA 95814

(916) 444-3900

COSTA MESA OFFICE
3200 PARK CENTER DRIVE, SUITE 710
COSTA MESA, CALIFORNIA 92626
(714) 850-1180

IN REPLY REFER TO:

G. RICHARD BROWN

March 3, 1982

Leliand J. Savage, Esq.
Deputy City Attorney
City of Sacramento
812 Tenth Street, Suite 210
Sacramento, CA 95814

Re: First Baptist Church

Dear Lee:

This letter follows an earlier letter to you of February 16, 1982 in which we expressed concern over objections to the compromise reached between the First Baptist Church and the City regarding the Diepenbrock Mansion and the related matters.

Since sending you that letter, we have received a copy of the combined proposal of the Sacramento Old City Association (SOCA) and the "L" Street Association for the properties owned by the Church. That proposal is dated February 19, 1982 and is signed by Gerald P. Harrington. Additionally we have received a copy of correspondence to you dated February 17, 1982 signed by James A. Cathcart, President of SOCA. In that letter Mr. Cathcart explains that the Board of SOCA rescinded its previous position of neutrality on the proposed compromise plan because the Board members "were not fully aware of all the issues involved." Mr. Cathcart goes on to console you for the difficulty that you have had in dealing with the Church. I do not know in what areas the members of SOCA were uninformed concerning the settlement proposal. As you are aware, Karolyn Simon of that organization was intimately involved in the process, and I am aware from talking to you that you spoke directly with both the members of SOCA and the "L" Street Association. Since I have had no direct contact with anyone other than Ms. Simon and you have received the appreciation of SOCA for your role, I do not know who is to be blamed for the failure of information. I am also unaware of what difficulty you have had in dealing with the Church, but if condolences are in order you are welcome to mine as well as to those of Mr. Cathcart.

Leliand J. Savage, Esq.
March 3, 1982
Page 2

We have reviewed the proposal submitted by SOCA and the "L" Street Association and have the following comments:

1. We arrived at a compromise solution in which both the City and the Church negotiated the best deal given their respective strengths and weaknesses. We will not be put in a position of negotiating from our final negotiated position.

2. The proposal is one which, in substance, appears to be very similar, if not identical, to proposals advanced in the past by these organizations or their members. With the exception of permitting the Church to remove one house and build its offices on "L" Street, it addresses none of the substantive needs of the Church and certainly makes no effort at striking a balance between historic preservation and the requirements of the Church for extended use of its property.

As we indicated in our letter of February 16, substantial time and energy has gone into the resolution of this problem. The resolution reached was eminently reasonable to the Church, the City and the neighborhood. No further time or energy is justified to satisfy the unsatisfiable.

Very truly yours,



G. Richard Brown

GRB:ddb

cc: James A. Cathcart
Gerald P. Harrington
Karolyn Simon

McDONOUGH, HOLLAND & ALLEN

A PROFESSIONAL CORPORATION
ATTORNEYS

555 CAPITOL MALL, SUITE 950
SACRAMENTO, CALIFORNIA 95814

(916) 444-3900

March 24, 1982

MARTIN McDONOUGH
ALFRED E. HOLLAND
BRUCE F. ALLEN
V. BARLOW GOFF
JOSEPH E. COOMES, JR.
WILLIAM G. HOLLIMAN, JR.
DAVID J. SPOTTISWOOD
ELMER R. MALAKOFF
RICHARD W. NICHOLS
DONALD C. POOLE
RICHARD W. OSEN
RICHARD E. BRANDT
GARY F. LOVERIDGE
G. RICHARD BROWN
DENNIS D. O'NEIL
DAVID W. POST
SUSAN K. EDLING
BRUCE McDONOUGH
WILLIAM L. OWEN
D. WILLIAM DENTINO
DAVID F. BEATTY
JAMES B. O'NEAL

ALICE A. WOODYARD
MICHAEL T. FOGARTY
ANN O'CONNELL
HARRY E. HULL, JR.
JEFFREY R. JONES
ROBERT W. O'CONNOR
BETSY S. KIMBALL
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SUSAN S. FRANCESCHI
SABINA D. GILBERT
DAWN H. COLE
JOHN M. TAYLOR
JANET NEELEY-KVARME
DENNIS W. DE CUIR
JOHN E. DI GIUSTO
JOHN L. CARRIER
CRAIG K. POWELL
MARK J. HUEBSCH
SHARON D. ROSEME
JOHN J. FLYNN III

COSTA MESA OFFICE
3200 PARK CENTER DRIVE, SUITE 710
COSTA MESA, CALIFORNIA 92626
(714) 850-1180

IN REPLY REFER TO:

HAND DELIVERED

Leliand J. Savage, Esq.
Deputy City Attorney
City of Sacramento
812 Tenth Street, Suite 201
Sacramento, CA 95814

Re: First Baptist Church -- Resolution of
Condemnation (Diepenbrock Mansion)

Dear Lee:

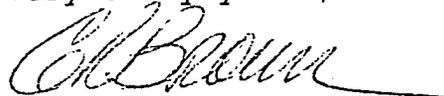
This follows a telephone conversation between us of Friday, March 19, 1982, and further acknowledges receipt of your letter dated March 22, 1982, transmitting notice of a hearing scheduled for March 30, 1982, at which time the City Council will reconsider the condemnation resolution adopted by for the Diepenbrock Mansion.

As I indicated to you on the phone, we feel the following is the best course of action. The Church and the City will proceed with the agreement as reached. The City Council will rescind the condemnation resolution. The Church will agree to carry out the agreement, as will the City, which means that the Church will not demolish the Diepenbrock Mansion, even though it will obtain the demolition permit once the condemnation resolution is rescinded. In the event that there is litigation brought by some third party challenging the City and the Church with respect to carrying out the agreement, then the Church will withdraw its revised application for the use permit and demolish the Diepenbrock Mansion and will proceed to obtain permits to demolish the remaining old houses. Those permits have been requested but have not been issued.

If this course of action is acceptable to the City, the Church will agree not to seek damages for the inverse condemnation of the Diepenbrock Mansion, or for precondemnation activities. However, the Church reserves the right, in any future judicial proceedings concerning the use of its property, to introduce into evidence (subject to normal objections) the activities undertaken over the years by the City with respect to the Diepenbrock Mansion. Further, should the City Council change its mind and once again seek to condemn the Diepenbrock Mansion, the foregoing waiver would be inapplicable, and the Church would be free to seek compensation for all its losses relative to the Mansion.

If there are problems with the foregoing, please let me know.

Very truly yours,

A handwritten signature in cursive script, appearing to read "G. Richard Brown", with a long horizontal flourish extending to the right.

G. Richard Brown

GRB:lkf