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MEMORANDUM

TO: Town Council
Town of Woodside

FROM: Howard N. Ellman

DATE: September 2, 2008

RE: Summary Of Efforts Made by Applicant Steven Jobs to Find Qualified Party
to Move and Restore The Jackling Estate at 460 Mountain Home Road

I. SUMMARY

The Town Attorney has asked me (as counsel for Mr. Jobs) to summarize the efforts to comply with Condition 4 in the Resolution adopted by the Council on December 14, 2004 when it approved the demolition permit for The Jackling Estate at 460 Mountain Home Road. The Council is reconsidering the permit in light of the previously certified EIR, the Addendum and the deficiencies that both the trial and appellate courts found in the 2004 actions of the Town Council.

Condition 4 reads as follows:

The demolition permit shall not be issued until January 1, 2006. The applicant shall work with the Town to market the estate at the applicant's expense and to the Planning Director's satisfaction. Such marketing shall include advertising in the publications of Historic Preservation organizations. The list of publications to be utilized shall be prepared by the Planning Director. The residence shall be donated for free, and the applicant will donate a reasonable amount, as determined by the Town Manager, to the cost of the moving of the estate to a new location. The new location is not required to be within the corporate limits of Woodside. The house

may be established at the new location in either the original design or with the additions.

The Condition had an impromptu genesis. The Staff Report submitted to the Planning Commission for its meeting of June 2, 2004 (to consider certification of the EIR and the demolition permit) recommended denial of the permit application. The Staff made no more than perfunctory provision for the possibility that the Planning Commission would reject that recommendation.

When it appeared that the Commission intended to recommend approval of the permit, the Planning Director proposed for the first time the concept that ultimately crystallized into Condition 4. She made the proposal orally in response to the Chair's request for suggested conditions. Jobs had no prior warning that such a condition might be imposed, had no opportunity to consider the wording but consented to it nonetheless. The Staff presented the exact wording of the proposed Condition in its Report to the Council for its meeting on December 14, 2004, where the Condition became part of the official Council action.

Apparently due to Mr. Jobs' high profile in the business community and the controversy his application generated, the Planning Commission's action at its June 16 meeting received extensive newspaper coverage. Reporters from the Almanac, the San Francisco Chronicle and the San Jose Mercury News attended the meeting. They all wrote articles that received a prominent place in their publications. The New York Times picked up the story and ran its own article on it, as did This Old House magazine.

All of these stories mentioned the fact that the house was available to anyone who wanted to move and restore it with Mr. Jobs required to contribute an unspecified amount to assist in that effort. Thus, well before the Council officially adopted Condition 4 in its final form, we began to receive inquiries from persons claiming an interest in relocating and restoring the Jackling Estate. We also received continuing contacts from newspaper reporters for the NY Times, the Chronicle and Almanac anxious to be kept abreast of any developments.¹

By December 14, 2004, we were able to present to the Council a matrix summarizing 76 inquiries received from persons claiming an interest in moving and restoring the Jackling Estate.

¹ This firm was listed in the articles as the contact for such inquiries and proposals.

A review of the files has turned up more than forty inquiries received prior to the time we began organizing the calls in the matrix format. I assume a certain amount of duplication, etc., but the total easily exceeded one hundred. Management of the inquiries consumed a significant amount of paralegal and attorney time. We also prepared a formal Request For Proposal and a form of contract that the Town Planning Director and Town Counsel reviewed and approved. These were sent to those inquirers who requested one and who exhibited a level of seriousness to justify the work involved – work that invariably included arrangements for them to tour the property, providing them with copies of plans, etc. *The RFP with attachments went out to more than 20 on our list who requested it, all before the Council formally granted the permit with Condition 4.*

In light of this history, Ms. Sullivan did not propose a list of publications as Condition 4 suggests. Instead, she asked us for our proposal. We elected to publish in the San Francisco Chronicle (May 22 and 29), the New York Times (May 22) and The Almanac (May 25 and June 1), with text that Ms. Sullivan approved. Publicity generated by the December 14th Council decision, the subsequent lawsuit and the advertising produced roughly thirty additional inquiries and proposals. Ms. Sullivan told us that we need do no more – that our efforts and the inherent notoriety of the situation had given the removal/restoration alternative sufficient exposure to effectively test its feasibility.

The requirement to market the removal/restoration alternative expired by the terms of Condition 4 on January 1, 2006. Nonetheless, and with the demolition permit tied up in litigation, we have continued to receive inquiries and have pursued those that appeared to have some substance behind them. We received the most recent such inquiry within the last three months. We have involved the plaintiffs in the lawsuit in this exercise with the idea that a viable removal and restoration proposal could provide a framework for settlement of the case. After all, if the plaintiffs are truly interested in preserving the Jackling Estate, they must realize by now that the litigation alone will not achieve that purpose. Only a removal and restoration project will do so. Thus, we have encouraged prospects to contact the plaintiffs and seek their approval for their project relocation sites and the restoration process that they intend to follow.

We have also asked the plaintiffs to attempt to find a qualified person to undertake the removal and restoration project, assuming that they might have such contacts. They declined that request, stating that they were not interested in doing so.

As of this moment, there are no persons or entities of which we are aware seriously considering the possibility of moving and restoring the Jackling Estate. We have been informed that two financially strong parties are still considering the matter but we have nothing in writing and no reason to believe that those "proposals" have any more substance or reality than those with which we have been dealing since late June, 2004.

Finally, we have spent -- and Mr. Jobs has paid for -- over one hundred hours of legal and paralegal time dealing with the marketing effort. That does not include the time spent by Ken Morrison, Mr. Jobs' project management, touring the property with various prospects which he has done with at least a dozen of them, spending time with their design and construction consultants and providing them with copies of plans.

In the next section, I will provide some of the details on prospects we thought were serious to whom we devoted more than the usual attention.

II. SPECIFIC EXAMPLES

The following is a brief summary of some of the proposals we received that prompted extensive negotiation:

1. A prominent local resident who has successfully restored (and in some cases moved) historic residences expressed a continuing interest in the property and made a tentative proposal that was quite promising. He made his initial contact immediately after the Planning Commission meeting in June, 2004. His efforts suffered a setback when his primary investor was tragically killed in a private airplane accident. His proposal that Mr. Jobs bridge that gap by either financing the project or guaranteeing the financing was rejected. In addition, his plans never progressed to the point where he could identify an acceptable alternative site.

2. A group interested in establishing the house on a site in San Juan Bautista as a religious retreat facility seriously considered the matter and demonstrated the apparent ability to

do the physical work that would be required. But after spending a lot of time in due diligence, they disclosed that they would expect Mr. Jobs to pay all the costs (then estimated at more than \$15,000,000) and satisfy himself with a charitable deduction. That offer was declined.

3. In a similar vein, a family with extensive experience in renovation proposed to move the house to a site in Montecito, where they would restore and occupy it as their principal family residence. As the details unfolded, however, it became clear that they intended to invest \$1,000,000 with Mr. Jobs to provide the rest of the funds required. In short, this applicant expected Mr. Jobs to create a home for them at his expense, a revelation that emerged after significant due diligence effort, etc. We wasted at least ten hours of legal and consultant time dealing with this "proposal."

4. A persistent individual, who claims experience in renovating historic residences, has made a variety of proposals, including an offer to provide Apple Inc. with a patented computer program in exchange for having Mr. Jobs pay all the costs of moving The Jackling Estate to a site in the Palm Springs area and renovating it there. This same individual offered to trade a site in the desert for the Woodside property – offering several variations on this notion when we rejected the first idea. Here again, the more unique and bizarre aspects of this proposal came out after we had spent several hours initially vetting what appeared to be a serious response to the RFP.

5. A local group proposed to remove the house to a site in the Woodside area and renovate it there. They came forward with an established construction contractor and a company with experience in relocating aging, deteriorating historic structures. They spent extensive time with the Town's Planning Director and Mr. Jobs' consultants. But after working on the matter for more than ninety days, their proposal consisted of nothing more than that Mr. Jobs pay them \$2,500,000 to do a salvage demolition of the house. They seemed never to grasp the concept that neither the Town nor the plaintiffs in the lawsuit would embrace a proposal that did not include assured renovation of the house on an acceptable site. It took at least fifteen hours of legal time to deal with these "applicants."

6. A local individual with experience in renovation of historic structures contacted us in early 2005 and spent the next several months attempting to put together a deal. He met

with Town Staff, talked at length with counsel for the plaintiffs in the litigation to determine what it would take to satisfy them, and attempted to tie up a succession of possible sites to which the house could be moved. Unfortunately, he never succeeded in pulling all of the pieces together. After working on the project for more than six months, he ended up proposing that Mr. Jobs pay him \$2,500,000 to keep trying.

7. Kennecott Copper Co. and the State of Utah are working on a museum to preserve the history of the copper mining industry in that state. Daniel Jackling was one of the original founders of Kennecott Copper. Certain officials associated with the museum effort expressed an interest in moving The Jackling Estate to be part of the museum complex. After preliminary consideration, however, they dropped the idea.

8. Five other apparently serious parties requested documentation and toured the property during the year 2005. Although all of those five appeared at least initially to have the ability to proceed with the project, none of them made a proposal.

9. Within the last three months, we have received two inquiries from apparently qualified individuals who have toured the property, one of them wanting to move the residence to the Ojai area, and the other with plans to keep the residence in Woodside. Neither proposal has progressed beyond the initial talking stage.

CONCLUSION

As the foregoing should illustrate, Mr. Jobs has made a persistent and expensive effort to find someone to move and restore The Jackling Estate. His effort transcends the requirements of Condition 4 in the original demolition permit and has continued to the present, motivated in part by Mr. Jobs' sincere desire to meet the wishes of those in the community who consider the Estate a valuable historic resource (a sentiment that he does not personally share) and as a way to resolve the litigation in a manner that would allow the preservationists the ability to achieve their objectives, something that the litigation can never provide them. The effort -- costly in both time and money -- has achieved nothing.

The foregoing summary does not include some of the more bizarre overtures the marketing effort generated that at one point included a proposal by a woman from South Carolina to move into the house and dismantle it from the inside while she was living there.

I would be happy to provide members of the Staff with access to our files to verify all of the foregoing if there is any interest in doing so.

Howard N. Ellman
September 3, 2008

