

P.O. Box 2680
Berkeley, CA 94702
September 14, 2006

Members of the City Council
City of Berkeley
C/o City Clerk
2180 Milvia Street
Berkeley, CA 94704

CITY OF BERKELEY
CITY CLERK DEPT
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Dear Members of the City Council,

Thank you for the opportunity to address you and present this appeal. On August 3, 2006, my property at 2411 Fifth Street was designated as a "Structure of Merit" by the Berkeley Landmarks Preservation Commission despite extensive factual evidence that it is a dangerous and uninhabitable building with no historical integrity. By doing this, the Commission not only made it all but impossible to develop the property in accordance with the zoning for this area but also greatly devalued my property. I hereby respectfully request that the "Structure of Merit" designation be removed.

I am a first-time home buyer and chose both Berkeley and this property with the idealistic goal of renovating the existing building into a wonderful sustainably-rebuilt home with additional units in the rear of the lot. I am a member of Berkeley's Build It Green organization and spent a year studying green building prior to purchasing the property. After considerable evaluation I found that the house is not only uninhabitable, but renovation of the structure would be prohibitively expensive. As a consequence, I put the property back on the market in June of this year. Interest in the property was high until my architect neighbors, who have repeatedly expressed their interest in purchasing the property, informed me that they had filed a petition to make the property a City of Berkeley Historic Landmark. At that point, previously interested buyers withdrew or decided not to make offers. Interest in purchasing the property abruptly stopped.

The past three months since the petition was filed have brought tremendous financial and personal hardship for me, as I continue working to pay the mortgage while spending a tremendous amount of time, effort, and additional expenses attempting to find my way out of the tightly woven web of neighbors' desires imposed on a piece of property (that I was simply trying to sell) combined with the Landmarks Commission's subjective decision-making process. This Commission has caused financial and personal harm to me, a Berkeley citizen, while lauding the rights of neighbors to inflict such harm in the interest of "preserving the fabric of the neighborhood." The Landmarks Commission and my neighbors have effectively taken control of my private property.

It is my hope that you, the Members of the Berkeley City Council, will act to retain your right to determine how land is used based on zoning ordinances and what is desirable for the City overall rather than allowing a Commission with its own agenda and neighbors with their own agendas to paralyze the sale or development of a property and become the final determinants of land use planning in the City of Berkeley.

The 7,051 square foot property at 2411 Fifth Street is located in a zone designated mixed-use residential on which, according to City of Berkeley zoning code, up to six units totaling 10,576 square feet can be built. It is my understanding that the neighbors feared if a developer purchased the property he or she would attempt to achieve maximum allowable density (as was done two blocks north at 2211 Fifth Street) and that this would necessitate removal of the current remnants of the Victorian building on the property. The designation of "Structure of Merit" makes it extremely difficult, certainly cumbersome, and maybe even impossible—in terms of both time and money—for anyone interested in renovating and restoring the Victorian building and adding a few units behind in accordance with the designated zoning. Rather, this designation will likely result in the continued deterioration of the currently uninhabitable structure. Please remove the Landmarks Commission's designation and allow the property to realize its potential rather than remain in a state of disuse.

In its current state, the building at 2411 Fifth Street is dangerous. It has no structural integrity. In separate reports, structural engineers Joshua Kardon, PhD, and Kathleen Rai, MS, MBA identified "multiple areas throughout the structure that demonstrated evidence of severe building distress." Dr. Kardon states, "The two-story residence is structurally unsound and in danger of collapse."

- The original brick foundation has settled differentially and rotated.
- The ground floor of the house has separated from the side walls.
- The load-bearing walls of the ground floor are leaning excessively and could not resist lateral forces, such as in an earthquake.
- The rear portion of the upper floor is suspended without adequate structural support.
- An attic fire charred rafters and beams supporting the roof and only some have been partially reinforced.
- The roof system is not tied to the building structure and could not resist lateral forces.

I made multiple requests for a City of Berkeley housing inspector to evaluate the building at 2411 Fifth Street in order to identify what initial improvements would be needed to obtain a certificate of occupancy, but I was told that only projects with building permits on file could be inspected. Based on other professional inspections, a multitude of code violations were identified.

Housing Inspector Claudio Bluer notes, "The structure shows signs of decay, neglect, and lack of preventive and periodic maintenance for a prolonged period of time" and "remodeling and repair work executed in an unprofessional manner and apparently without the proper and required building permits... that aggravates the unsuitable living condition of this structure." Mr. Bluer concludes, "Due to the several life threatening conditions, the inordinate number of habitability violations, the lack of maintenance, and their compounded effect, this building constitutes a threat to the health and safety of the occupants. The work entailed to return this property to its original condition is impractical, cost prohibitive, would not meet present-day code requirements, and would not be reasonably feasible."

- There are exposed bare and disconnected wires, electrical outlets that are not grounded, and switches without plates, all creating shock hazards.
- The sewer pipes exiting the downstairs bathroom and the house itself are out of joint and cracked and fail to effectively drain raw sewage waste and flammable sewage gasses into the sewer system. Instead, raw sewage deposits into a pit dug underneath the house below the downstairs bathroom.
- Both gas and water pipes are improperly installed throughout, are unsecured, and do not have shut-off valves, creating health and safety hazards.
- Bathrooms and kitchens both upstairs and downstairs exhibit non-conforming construction with improperly installed piping, sinks, toilets, and tub.
- Pipes for the downstairs bathroom have been installed through the exterior building wall and left exposed with charred areas of the wall where the pipes were soldered together.
- The lower unit's ceiling height does not meet code and it cannot be legally inhabited.
- Multiple window frame surfaces exhibit excessive mold and there is fungus and mildew on ceiling and wall surfaces, creating a health hazard.
- There is evidence of water intrusion and damage to closet ceiling and walls.
- Wood shingles on the exterior of the building show evidence of fire damage and deterioration.
- There is wood-soil contact along the exterior of the building with extensive wood rot and termite damage.

Mr. Bluer observes, "The lay out of this property has been substantially changed over the years. The upstairs exhibits major remodeling, rooms have been relocated and used for other than their intended purpose. There is evidence of additions to this structure (i.e. rear pantry). There are non-compliant changes and there are changes that are non-structurally sound. The downstairs unit was not originally meant for human habitation, the work at this unit is non compliant and is dilapidated. The downstairs area was

originally intended for storage and equipment only, and it also exhibits the non compliant upkeep as the upstairs unit... Rendering both units habitable would entail major construction work and securing major conditional use permits and variances... repair, alteration, and improvements must meet present day code requirements. Most systems require thorough replacement.”

Further evaluation by a noted civil engineer, historical expert, and forensic investigator Thomas Reeves included destructive testing throughout the building with dating of construction materials that confirmed Mr. Bluer’s observation that many additions and renovations were made since the building was originally constructed. Based on a complete review of the building file for this property, it is evident that all major additions and renovations were done without building permits. Most appear to have been done in a piecemeal fashion with mismatched materials rather than done professionally.

- Upstairs aluminum windows on the front bay window were added in 1963, and crown molding inside the front bay window is attached with post-1960s nails.
- The ornamentation attached to the 1960s window trim is likely not of original vintage. According to Mr. Reeves, “evaluation of the columns and gingerbread confirm that they were completed during a manufacturing process” which did not exist in the 1890s.
- The original 1890s entry to the building was not in the same location. The front porch installation was completed at a later time. The walls of the crawl space beneath the porch are not constructed of the original redwood framing and lap siding seen on the original wall of the building.
- The porch was reconstructed in the 1960s as evidenced by double-headed nails found in the porch planking.
- The downstairs bedroom closet was constructed underneath the porch with materials dating to the 1960s.
- The upstairs rear kitchen was added in the 1930s, as dated by the door and window frame medallions.
- The front hallway was added in the 1930s and is seen bisecting the original 1890s door frame medallions.
- Most wiring and many fixtures in the house date back to the 1930s.
- Waste line plumbing is bell-and-hub dating to the 1930s, and copper plumbing through the exterior building wall into the downstairs bathroom dates to the 1960s, at which time the downstairs bathroom was added.
- Although the southern wall of the downstairs unit was found to be original, the northern portion of the building, including flooring and walls, was constructed with double-head nails that date to the 1960s.

The building at 2411 Fifth Street is a hodgepodge of incompatible building materials pieced together over the years, with major changes in the building layout and function: The upstairs tub is in the kitchen and the only upstairs

toilet is built into the corner of the rear bedroom; walls creating hallways and the pantry bisect original medallions framing the doorways; and the downstairs, originally built as a storage area, was converted into a non-permitted living unit. Major renovations and additions were made in the 1930s and 1960s, likely prompted by the major fire that damaged the roof support system, the walls on the south side of the building, and the front eave and fascia.

Based on the Substantial Change Rule, legally the entire structure must now be brought up to the current California Code. In effect, it must be rebuilt, not simply superficially restored. The designation of "Structure of Merit" placed on the property at 2411 Fifth Street could make such rebuilding impossible, since changes to and replacement of parts of the building envelope, including the roof and its supports, will have to be made during the process of reconstruction. Recreating this Victorian building as the best original version of itself is a momentous task in terms of both effort and financial investment. Please do not allow this building's revival to be further handicapped by an inappropriate historical designation based on subjective feelings and ulterior motives. Please consider the facts and the unfortunate condition of the building as it stands today. Not only does the building have a multiplicity of structural and code violations, but it also has no historical integrity on which to base the "Structure of Merit" designation.

Thank you for your time and attention in reviewing this appeal of the designation of 2411 Fifth Street as a "Structure of Merit". It is my hope that you will remove this obstruction to any future restoration of the existing building or development of the land behind the building (which is included in the "Structure of Merit" designation and is now under the control of the Landmarks Commission). The actions of the Landmarks Commission may in actuality condemn to ruin and disuse a building that they proposed to protect. With the historical designation in place, reviving the Victorian structure currently on the property may be impossible. With your help in removing the hindrance of the "Structure of Merit" designation, it may be possible. If you have any questions or would like a tour of the building itself, please feel free to contact me at 310-766-3469.

Sincerely,

A handwritten signature in cursive script that reads "Laura Fletcher". The signature is written in dark ink and is positioned below the typed name.

Laura Fletcher

