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July 1, 2008

*Via Email and U.S. Mail*

Craig A. Ewing  
Director of Planning Services  
City of Palm Springs  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92263

Re: Scoping Comments on Museum Market Plaza Specific Plan

Dear Mr. Ewing:

On behalf of the Palm Springs Modern Committee and Friends of the Town and Country Center, we submit these comments on the scope of environmental review for the Museum Market Plaza Specific Plan. The Museum Market Plaza Specific Plan would set development standards and guidelines for 20.6 acres in downtown Palm Springs, located at the northwest corner of North Palm Canyon Drive and Tahquitz Canyon Way. The Palm Springs Modern Committee and Friends of the Town and Country Center support the revitalization of downtown Palm Springs. However, we are vigorously opposed to the proposed Museum Market Plaza Specific Plan planned demolition of the historically significant Town and Country Center.

The Town and Country Center was designed by renowned master architects Paul R. Williams and A. Quincy Jones in 1948. Paul R. Williams was an African American architect who largely based his practice in Los Angeles and the Southern California area. He was the first certified African American architect west of the Mississippi and the first African American member of the American Institute of Architects. He has received numerous awards for his contributions as an architect. A. Quincy Jones was a prolific Los Angeles-based architect and educator known for innovative buildings in the Modernist style. Jones' focus on detail, siting, and sense of aesthetic style make his buildings supreme examples of mid-century American Architecture.

The Town and Country Center epitomizes "the mid-century modernist character so strongly identified with Palm Springs." (Palm Springs Citywide Historic Resources Survey, June 2004.) A recent book entitled "Palm Springs Weekend" utilized extensive research and vintage photographs to discuss the Town and Country Center and other historically significant Palm Springs buildings. The author, architecture critic Alan Hess, states that the Center is a "distinctive example of 1940s California

Modernism...incorporat[ing] broad abstract stucco walls, horizontal lines of warm wood, ornamental egg crate screens and lush outdoor gardens.” (Palm Springs Weekend, p. 121.) Further, and even more substantial evidence of the Center’s historic significance is the City’s own historic resources survey finding that the Center “meets the level of significance necessary for individual National Register of Historic Places or California Register of Historical Resources eligibility at the local level.” (Palm Springs Citywide Historic Resources Survey, June 2004.) This finding is based on the fact that the Center is a “rare and excellent example of the late Moderne style” with a “good degree of integrity” and no alteration that would impact its significance.

The environmental impact report (“EIR”) for the Museum Market Plaza Specific Plan must consider the historic, aesthetic and land use impacts the project would have from its proposal to demolish the historically significant Town and Country Center. Because the Center is an historic resource, the California Environmental Quality Act (“CEQA”) requires that the EIR consider alternatives to demolition of the Center and mitigation measures that would lessen the impacts to this important resource. The City could not approve the demolition of the Center as part of the Museum Market Plaza project unless there were no feasible alternatives or mitigation measures. The Palm Springs Modern Committee and Friends of the Town and Country Center have previously submitted a detailed proposal for a Town and Country Plaza alternative to the project that would eliminate the wholesale demolition of the Town and Country Center. The EIR must analyze this and other alternatives that would preserve this important historic resource.

## **I. THE EIR MUST COMPREHENSIVELY ADDRESS ALL OF THE PROJECT’S SIGNIFICANT ENVIRONMENTAL EFFECTS.**

To be legally adequate, an EIR must comprehensively identify and address all of the “significant environmental effects” of a proposed project. (Public Resources Code § 21100(b)(1); CEQA Guidelines § 15126.2.) “All phases of a project,” including “planning, acquisition, development, and operation,” must be addressed. (CEQA Guidelines § 15126.) And both “[d]irect and indirect significant environmental effects” must be analyzed, “giving due consideration to both the short-term and long-term effects.” (CEQA Guidelines § 15126.2(a).)

The Initial Study for the Museum Market Plaza project sets forth an incorrect standard for analyzing the project’s impacts on historic resources. The Initial Study states that the EIR for the project need only “analyze the value of any *designated* historic resource, determine the level of impact associated with demolition of a *designated* historic resource, and identify whether mitigation measures are available to mitigate the potentially significant impact.” (Initial Study, pp. 10, 18, emphasis added.) As discussed

in detail below, this is an inaccurate and improperly limited statement of the City's duties under CEQA. CEQA does not limit the analysis of impacts to historic resources to only those that have been officially designated. (Public Resources Code § 21084.1 ["The fact that a resource is not listed in, or determined to be eligible for listing in, the California Register of Historical Resources, not included in a local register of historical resources, ... shall not preclude a lead agency from determining whether the resource may be an historical resource for purposes of this section."]) Additionally, once a significant impact to an historic resource has been identified, CEQA requires not only the consideration of mitigation measures for the impact, but CEQA prohibits the approval of a project that would have a significant impact on an historic resource if there are feasible alternatives that would lessen the impact. (Public Resources Code § 21081.)

**A. The Demolition of the Town and Country Center Would be a Significant Impact to a Historical Resource**

"A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment." (CEQA § 21084.1.) CEQA "does not demand formal listing of a resource in a national, state or local register as a prerequisite to 'historical' status. The statutory language is more expansive and flexible." (*League for Protection of Oakland v. City of Oakland* (1997) 52 Cal.App.4th 896, 907.)

As noted above, the Palm Springs Citywide Historic Resources Survey, dated June 2004, has identified the Town and Country Center as a significant historic resource. According to CEQA Guidelines section 15064.5 "[a] resource... identified as significant in an historical resource survey meeting the requirements [of Public Resources Code] section 5024.1(g)" is presumed to be an historical resource. "Public agencies *must treat any such resource as significant* unless the preponderance of evidence demonstrates that it is not historically or culturally significant." (CEQA Guidelines § 15064.5(a)(2), emphasis added.) The Court of Appeal in *League for Protection of Oakland v. City of Oakland* (1997) 52 Cal.App.4th 896 followed this directive when it found that buildings "deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1, are presumptively historical resources unless the preponderance of the evidence demonstrates otherwise." (*Id.* at 906-907.)

The Citywide Historic Resources Survey (June 2004 Survey) that determined the Center to be historically significant does meet the requirements of Public Resources Code section 5024.1(g), creating a presumption that it is a significant historic resource for purposes of CEQA. The June 2004 Survey was prepared in accordance with Office of Historic Preservation procedures and requirements by a cultural resources management company with highly experienced architectural historians. (June 2004 Survey, Executive

Summary, p. 3 [“This [survey] has been carried out in accordance with The Secretary of the Interior’s Standards for Preservation Planning, Identification, Evaluation, and Registration, and under the guidelines established in National Register Bulletin 24: Guidelines for Local Surveys: A Basis for Preparation Planning... The [persons preparing the survey] meet the Secretary of the Interior’s Professional Qualification Standards in the disciplines of history and architectural history.”])

Additionally, the June 2004 Survey has assigned the Town and Country Center a rating of 5S3. The rating is a reference to the California Historical Resource Status Code (“Status Code”). There are seven categories under the Status Code, each of which is divided into more specific subsections. If a survey finds that a resource falls within categories one through five then resource is considered to be historically significant. Resources falling into categories six and seven are not considered to be historically significant. The seven categories are as follows:

1. Properties listed in the National Register or California Register.
2. Properties determined eligible for the National Register or California Register.
3. Appears eligible for listing in the National Register or California Register through survey evaluation.
4. Appears eligible for listing in the National Register or California Register through other evaluation.
5. Properties recognized as historically significant by local government.
6. Not eligible for listing or designation as specified.
7. Not evaluated.

Each of these seven categories is broken down into subcategories. Of relevance here, Category 5S3, provides that a resource is historic when it “Appears to be individually eligible for local listing or designation through survey evaluation.” (Attachment 1, California Historic Resources Status Codes.) The evaluation of the Town and Country Center found it to be eligible for local designation by the City of Palm Springs as a historic site; therefore it fits squarely within Category 5S3 and has been found to be historically significant by the June 2004 Survey. This creates a presumption that the Town and Country Center is historically significant for purposes of CEQA review. That presumption can only be rebutted by substantial evidence to the contrary. We are aware of no evidence rebutting the presumption that the Town and Country Center is historically significant.

The importance of the June 2004 Survey is also set forth in City’s Downtown Design Guidelines. The Guidelines acknowledge that buildings identified in the June 2004 Survey are considered historically significant by the City by stating that: “Listings of historical buildings [for the City of Palm Springs] can be found in the Historic Site Preservation Board 30-June-03 List of Class I and Class II Historic Sites and the June

2004 City of Palm Springs Department of Planning and Zoning Citywide Historic Resources Survey.” (Downtown Design Guidelines p. 38)

Thus, because the Town and Country Center has been identified as historically significant by a qualified survey and because the City relies upon the findings of that survey to identify historically significant buildings, the Center is presumed to be a significant historic resource under CEQA. The complete demolition of the entire Town and Country Center would obviously “cause a substantial adverse change in the significance” of this historic resource, which is a significant impact under CEQA. (Public Resources Code § 21084.1.)

Even if the June 2004 Survey were not a qualifying survey under Public Resources Code section 5024.1(g), the Town and Country should still be considered an historic resource. “Generally a resource shall be considered by the lead agency to be “historically significant” if the resource meets the criteria for listing on the California Register of Historical Resources...: (CEQA Guidelines 15064.5(a)(3).) The criteria for listing on the California Register of Historical Resources are:

- (A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- (B) Is associated with the lives of persons important in our past;
- (C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- (D) Has yielded, or may be likely to yield, information important in prehistory or history.

The June 2004 Survey was prepared by expert architectural historians and would serve as substantial evidence of the Town and Country Center’s historic significance. The June 2004 Survey found that the Town and Country Center meets criteria (A) because it is “an outstanding example of commercial architecture in the late Moderne style” and because it “represents the overall commercial development of downtown Palm Springs during the post-war era and contributes to the mid-century modernist character so strongly identified with Palm Springs.” The City’s Downtown Design Guidelines reiterate the importance of the Town and Country Center to the downtown stating that Palm Springs’ “historical architecture creates a unique sense of place and identity.” (Downtown Design Guidelines, p. 10) The Guidelines identify the Town and Country Center as one of the unique buildings that adds to the character of downtown. (*Id.*) The June 2004 Survey further found the Town and Country Center to be “an exceptional example of its type, period, or method of construction.” Expert architectural historians such as the Palm Springs Modern Committee President, Peter Moruzzi, have also commented on the

historic significance of the Town and Country Center as one of the City's best examples of Late Moderne architecture.

The Center was also found by the survey to meet criteria (C) because "the building is the work of master architects, Paul R. Williams and A. Quincy Jones, [and] thus has an elevated level of significance for its association with prolific local architects of national prominence." As set forth above, both Paul R. Williams and A. Quincy Jones were preeminent architects that have created many unique architectural structures, including the Town and Country Center.

For all of these reasons, the Town and Country Center must be considered historically significant for purposes of CEQA review. The EIR must thoroughly analyze whether the proposed project would cause a substantial adverse change to the Town and Country Center, and if so, how to mitigate the impacts or eliminate the impacts through the selection of an alternative to the proposed demolition.

### **B. Aesthetic Impacts**

The Initial Study states that the EIR only would need to analyze the aesthetic impacts of those buildings that have been officially designated as historic. (Initial Study, p. 10.) As set forth above, this is not the test required by CEQA for determining whether a resource is historically significant. Additionally, if the project were to include the demolition of the Town and Country Center, it may have a significant aesthetic impact because it may substantially degrade the existing visual character of the site. The Town and Country Center has been found to add to the character of downtown Palm Springs. (June 2004 Survey, Downtown Design Guidelines p. 10.) The removal of a building that adds to the character of downtown would substantially degrade the existing visual character of downtown Palm Springs. As a matter of law, the EIR must comprehensively address this significant aesthetic effect that the project may have. (*See Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597.)

### **C. Land Use Impacts**

The City's General Plan contains numerous statements calling for the protection and preservation of the City's architecturally and historically significant resources. The demolition of the architecturally and historically significant Town and Country Center may violate the following goals and policies of the City's General Plan:

- Preserve and uphold the high quality of architecture and the unique visual and aesthetic form in buildings and neighborhoods that distinguish Palm Springs from other cities. (General Plan Priorities p. 1-13.)

- Recognize the importance of adaptive reuse for architecturally and historically significant resources. (General Plan Priorities p. 1-13)
- Maintain the City's unique "modern urban village" atmosphere and preserve the rich historical, architectural, recreational, and environmental quality while pursuing community and business development goals. (Land Use Goal LU-2.)
- Strengthen the unique sense of place currently present in Downtown by preserving and incorporating cultural and historic uses. (Land Use Policy LU10.6.)
- Support the preservation and protection of historically, architecturally, or archaeologically significant sites, places, districts, structures, landforms, objects, native burial sites and other features. (Recreation, Open Space and Conservation Policy RC10.1.)
- Promote historic preservation-based tourism by raising awareness of the City's historic resources. (Recreation, Open Space and Conservation Policy RC10.7.)
- The preservation of historic buildings will help retain the City's character and charm, which are crucial to the City's international reputation and economic success. (Community Design Element p. 9-58)
- Encourage developers of sites containing a significant architectural, historical or cultural structure to adaptively reuse and expand it, in lieu of demolition and replacement, where financially feasible. (Community Design Policy CD28.7.)

The EIR must analyze whether the Museum Market Plaza Specific Plan project would be inconsistent with any of these General Plan polices and goals.

## **II. THE EIR MUST COMPREHENSIVELY ANALYZE ALTERNATIVES TO THE PROJECT.**

Section 15126.6 of the CEQA Guidelines requires that an EIR "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of

the alternatives . . . even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.” This discussion must include “sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project,” and expressly must address “[t]he specific alternative of ‘no project,’” the purpose of which “is to allow decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.”

In light of this legal mandate, Palm Springs Modern Committee and Friends of the Town and Country Center request that the EIR thoroughly analyze alternatives to the proposed project that would eliminate in part and in whole the demolition of the Town and Country Center. To assist the City in complying with CEQA’s mandate, we have prepared a detailed analysis of an alternative that would allow for the adaptive reuse of the Town and Country Center. The Town and Country Center Plaza Alternative (“T&CC Plaza Alternative”) is identical to the proposed Plan except for Blocks K1 and K2, the current location of the historically significant Town and Country Center. The Town and Country Center consists of three buildings: A, B and C. The proposed Plan would demolish all three of the buildings that make up the Town and Country Center, whereas the T&CC Plaza Alternative calls for adaptive reuse of Buildings A and B, and integration of these important resources into the Palm Springs Central Business District. The T&CC Plaza Alternative would include a large plaza, open to Palm Canyon Drive, where Building C is currently located in Block K2, along with a new outdoor restaurant building (Building D) on the south side of the newly created plaza. Information regarding the layout of the T&CC Plaza Alternative was submitted to the City by designer Marshall Roath on June 12, 2008. Our firm also submitted an analysis of how the Town and Country Center Plaza Alternative would meet the City’s goals for the project on June 13, 2008.

The City must comprehensively analyze the T&CC Plaza Alternative and other alternatives to the demolition of the Town and Country Center in the draft EIR for the Museum Market Plaza Specific Plan. (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal. App. 4<sup>th</sup> 1437, 1457.)

## **CONCLUSION**

The Palm Springs Modern Committee and Friends of the Town and Country Center understand how important the redevelopment of downtown Palm Springs is to the entire community. We believe that this redevelopment does not require the wholesale demolition of the historically significant Town and Country Center. The City must balance the need for revitalization with the preservation of the City’s important mid-century architectural heritage. As set forth in our June 13, 2008, the adaptive reuse of the

Craig Ewing  
July 1, 2008  
Page 9 of 9

Town and Country Center would meet all of the goals set forth for the Museum Market Plaza Project, but would also allow the enhance the distinctive architecture for which Palm Springs is famous. Thank you for your consideration in this matter.

Sincerely,



Amy Minter  
Attorney at Law

Enclosure: California Historic Resource Status Codes

Cc: Palm Springs City Council  
David Ready, Palm Springs City Manager  
Douglas Holland, Palm Springs City Attorney  
Friends of Town and Country Center  
Palm Springs Modern Committee