



CITY COUNCIL STAFF REPORT

DATE: April 1, 2009

PUBLIC HEARING

SUBJECT: PROPOSED DRAFT SPECIFIC PLAN (GENERAL PLAN AND ZONING TEXT AMENDMENTS) FOR MUSEUM MARKET PLAZA (CASE 5.1204) TO ALLOW UP TO 955 HIGH-DENSITY RESIDENTIAL UNITS, UP TO 400,000 SQUARE FEET OF COMMERCIAL RETAIL AND OFFICE SPACE, AND UP TO 620 HOTEL ROOMS LOCATED AT THE NORTHWEST CORNER OF N. PALM CANYON DRIVE AND TAHQUITZ CANYON WAY, AND OTHER NEARBY PROPERTIES

FROM: David H. Ready, City Manager

BY: Craig A. Ewing, AICP, Director of Planning Services

SUMMARY

On January 14, 2009, the City Council conducted a public hearing, received testimony and continued action on the Museum Market Plaza Specific Plan. Subsequently, staff has met with each Council member to receive individual comments, which have been compiled and summarized in this memo. The Council will re-open the public hearing, take any additional testimony and, at its option, direct staff with regard to final action on the draft Specific Plan.

RECOMMENDATION:

1. Open the public hearing, accept any testimony, and close the hearing.
2. Direct staff to prepare draft resolutions/ordinance based on Council direction, including the certification of the Final Environmental Impact Report, adoption of Statement of Overriding Considerations, adoption of a Mitigation Monitoring Report, and approval of the Specific Plan, including any amendments, as appropriate.

BACKGROUND

- On April 30, 2008 Wessman Development, Inc. presented to the City a draft Specific Plan for the Museum Market Plaza.
- On May 21, 2008, the City Council initiated a Specific Plan review process and directed staff to report on the conformance of the draft Museum Market Plaza Specific Plan with

ITEM NO. 1.C.

the Palm Springs General Plan, Downtown Design Guidelines, and Palm Springs Zoning Code.

- On June 4, 2008, staff presented to the City council an initial look at the draft Specific Plan in light of the City's existing regulations, including staff comments and recommendations for subsequent review.
- On June 13, 2008, the City issued a Notice of Preparation (NOP) and Initial Study on the project indicating that a draft Environmental Impact Report (DEIR) would be prepared on the proposed Specific Plan. The NOP comment period ran from June 16 to July 17, 2008.
- On July 1, 2008 a public Scoping Meeting was held to receive comments on preparation of the draft Environmental Impact Report.
- On July 16, 2008, the City Council received the list "alternatives" to the project that would be evaluated in the Environmental Impact Report.
- On October 22, 2008, a draft Environmental Impact Report (DEIR) was released for public comment. The 45-day comment period ends on December 8, 2008.
- On December 3, 2008, the Planning Commission conducted a public hearing and directed staff to prepare a resolution recommending denial of the Specific Plan. The resolution was approved by the Commission on December 17, 2008.
- On January 14, 2009, the City Council conducted a public hearing, accepted testimony, and continued the matter.

It should be noted that on February 17, 2009, the applicant completed a "pre-application" for a remodel of the existing center. No subsequent project application has been submitted.

ANALYSIS

Introduction

Following the receipt of public testimony at the noticed hearing of January 14, 2009, the City Council continued action on the matter. The Council also directed staff to consolidate the comments of the City Council and develop recommendations for the Council's review (see attached meeting minutes). Additional background information is contained in the attachments.

Following the January hearing, staff met or communicated with each Council member and received individual comments, which are summarized below. From these comments, staff has identified areas where it believes there may be consensus and areas where additional discussion may be needed. By working through each of the issues discussed below, the Council may develop an overall direction for the Specific Plan and thereby identify its preferred action.

Council Comments

The following Council comments were provided to staff after the January hearing:

Councilmember Hutcheson:

Highlights:

- Reduce number of condos, hotel rooms, retail square footage and other uses from that proposed in the original plan; increase open space; preserve flexibility.
- Preserve the open space-village square concept; it is key to the whole project area, and is the one thing the City is certain to be able to deliver.
- Identify removal of blight as an important project goal.
- Set overriding objective of “great” architecture, preferably consistent with our existing architectural palette (Modern or Spanish Colonial Revival)

Changes / Amendments:

- Reduce Specific Plan boundaries; delete Blocks J, K1 / K2 and L.
- Extend Plaza shown in Block “B” through to Museum by including Block E-G-H
- Support extended Plaza with a 75% open space requirement in Block E-G-H, as well as same height restrictions as in Block “B”
- Maintain maximum height of 60 feet, with lower heights (30 to 45 feet) along project boundaries / edges.
- Modify Appendix A to accommodate the above concerns before incorporating into action findings.

Councilmember Weigel

Highlights:

- Allow variety of architectural styles, with no predetermined architecture.
- Establish street setbacks and stepping of buildings as key goals of Plan.

Changes / Amendments:

- Exclude Block J in averaging of overall heights.
- Establish setbacks and stepping of buildings in specific ways.

Councilmember Foat

Highlights:

- Preserve the Town & Country center
- Allow variety of architectural styles, with no predetermined architecture.
- Introduce more public space into the main area of Block B and surroundings.

Changes / Amendments:

- Delete Blocks J and L from Specific Plan boundaries
- Reduce maximum allowed heights
- Reduce maximum allowed densities

Mayor Pro Tem Mills

Highlights:

- Provide open space on Block B to preserve view corridor

- Allow angle parking on Belardo

Changes / Amendments:

- Consider deletion of Blocks J and L; keep Block K in Plan
- Allow 64 feet maximum height for residential buildings.
- Eliminate any enclosed floor area in Block B; allow kiosks
- Create additional street-level open space on corners.
- Allow balconies, but not enclosed spaces over right-of-way.
- Allow “contemporary” architecture – more stylistic flexibility than “modern”

Mayor Pougnet

Highlights:

- Use setbacks on Palm Canyon Drive to create welcome feeling

Changes / Amendments

- Consider deletion of Blocks L and J
- Establish height limit of 60 feet.

Based on these comments and the issues raised in the January 14, 2009 staff report and hearing, staff has identified the following issues for Council consideration. If the Council finds consensus on these issues, and any others it identifies, it may direct staff to prepare final resolutions for Council adoption

Overall Vision

The Council appears to accept the Plan's overall vision. One comment seeks to include the “removal of blight” as a project goal. Another seeks to include street setbacks and building stepping as key goals. Some modifications to Appendix A may be needed, based on final Council action.

Recommendation: Consider adding removal of blight and building setbacks to Specific Plan vision, and include Appendix A, as may be modified.

Project Scope

Council comments show an interest in reducing the project’s boundaries

- Two seek to delete Block J (Mercado Parking Lot) and L (SW Cahuilla & Tahquitz); two others willing to consider their removal
- One seeks to delete Block K-1 / K-2 (Town & Country); one seeks to retain it

Deletion of the non-contiguous blocks (Blocks J, K-1 / K-2 and L) could be accomplished with without undermining the overall vision. Deletion of any block from the Plan would return it to the control of the General Plan, Downtown Urban Design Plan and Zoning Code, as follows:

<u>Block</u>	<u>Current General Plan</u>	<u>Current Zoning</u>	<u>Proposed Specific Plan</u>
J	Central Bus. District	C-D-B	Multi-Level Parking
K-1 / K-2	Central Bus. District	C-D-B	Hotel
L	Small Hotel	R-3	Hi-Density Res'l / Hotel

Recommendation: Consider deletion of outlying Blocks J and L. Consider retention of Block K-1 / K-2.

Land Use

Council comments on land use tended to focus on Block B and the significance of a village square within the project:

- Three comments sought to expand the open space of Block B, either by enlarging Block B, or extending the open space into Block E-F-H, or by restricting development within Block B to kiosks.
- One comment sought to preserve the Town & Country Center.

Staff notes that a widened view corridor along the “Museum Way” street may still retain a desirable pedestrian street scale; however, larger open spaces will reduce the amount of land available for economic activity, as well as require a permanent maintenance effort to keep the space vibrant, clean and safe. Staff believes that the size of Block B is sufficient open space within the project area, especially as the nearby O’Donnell Golf Course will revert to public use in a few decades.

In the proposed Plan, the Town & Country Center would be replaced by a hotel. If Block K-1 / K-2 is deleted, the Specific Plan would not have any authority over the Center and it would be regulated by the existing General Plan and Zoning Ordinance. If these Blocks are retained in the Plan, the Plan may identify the City’s policy regarding the existing buildings. The EIR identifies that demolition of the Center would have a significant impact. The Council can identify its preference in the matter and direct staff accordingly.

No Council comments were offered on the list of permitted uses (see January staff report).

Recommendation: Establish a wider promenade along Museum Way; consider reducing the development potential of Block B to unenclosed structures and kiosks; identify the City’s position on the issue of the Town & Country Center; and adjust the list of permitted uses, as identified in the January 14, 2009 report.

Densities

Two comments were provided on the project’s densities, both suggesting that they should be reduced. One included a recommendation for preserving flexibility. As proposed, the Plan provides some flexibility by allowing higher densities for individual uses, but anticipating that the final mix of uses will be determined by the timing of market forces – and at lower overall densities.

As noted in January, densities are affected by decisions regarding maximum height and open space. In the discussion of height (below) the final Plan could establish a lower maximum height than currently proposed; if so, less development (and density) will result. Based on the Council’s apparent consensus around a height limit of about 60 feet, staff believes that the density recommendations proposed by staff in the January 2009 report – including a bias toward more hotel rooms and less residential – remain valid and viable:

Type of Use	Proposed Draft Specific Plan	Project Alternative "B"	Staff Recommendation
Residential Units	955	765	300
Commercial / Office SF	400,000	300,000	300,000
Hotel Rooms	620	255	600

Recommendation: Approve the maximum densities, as recommended by staff above.

Height

The strongest consensus was expressed around the issue of building height:

- All five Council members sought a lower maximum height: Two prefer a maximum of 60 feet; one set a height of 64 feet for residential buildings, one would delete Block J from the 60-foot averaging scheme (thereby bringing the height of other buildings closer to 60); and one gave no specific number. One comment sought to reduce the maximum height of Block E-G-H to 24 feet.

As previously stated, staff does not support the height-averaging concept, but does believe that individual blocks can have different heights appropriate to their size, location and orientation to surrounding properties and views.

The suggestion of a 64-foot limit for residential buildings would allow for higher first floors, which may be advantageous for street front retailing needs. Staff believes that hotels (instead of residential) could warrant a taller building, as noted in the provisions recommended below.

Recommendation: Adopt a revised maximum building height standard as follows:

• Block A	45		
• Block B	24		
• Block C	60		
• Block D & F	60/45		
• Block E, G, H	60		
• Block J (if retained in the Plan)			34
• Block K (" " " " ")	45		
• Block L (" " " " ")		45	

Additional provisions:

1. Buildings shall be lower (30 to 45 feet) as they approach the edges of the Specific Plan boundaries, especially along Tahquitz Canyon Way, east of Belardo, and along Palm Canyon Drive.
2. An exception to the "edge" policy is allowed at the corner of Tahquitz and Palm Canyon to create a landmark intersection statement, subject to approval by the City Council.
3. Blocks containing hotels may exceed the above height limits, subject to approval by the City Council.

Setbacks, Open Space and other Standards

A variety of comments were offered on the issues of setbacks and related standards:

- One seeks to establish setbacks and the stepping of buildings in specific ways, while another identified the setbacks on Palm Canyon as a “welcoming” feature. One comment noted that street-level open space at the corners is needed, and one supported allowing open balconies to project into the right-of-way.

The Specific Plan provides a block-by-block set of standards for setbacks, open space, maximum square footage, projections, outdoor uses, walls and fences, parking and other incidental issues (see Pages III – 10-17). Staff notes that the Plan’s standards are similar or the same as the underlying C-B-D zone.

A complex “step-back” scheme for each of the streets is also proposed to replace the uniform setback standard of the “high-rise” ordinance. Staff believes the step-backs proposed in the plan allow two story buildings on most street frontages to provide a reasonable relationship between building and street.

Open space requirements are 35% minimum for all Blocks, except the open plaza on Block B. This plaza space would be 75% open space, allowing for some low-rise retail / restaurant uses. (As noted above, one Council comment recommended a 75% open space requirement for Block E-G-H.) Staff supports the open space limit on Block B, but not Block E-G-H.

Lastly, staff believes that the heights, densities, setbacks and parking requirements provide sufficient guidance to development of the site and that the building mass chart may be superfluous.

Parking is treated in the Plan at a base standard of one space for each 325 square feet of floor area for most commercial uses. This compares with the same standard for mixed use development in the Zoning Code’s C-B-D zone. Hotel uses are to be parked at a slightly higher ratio than called for in the zoning code, and residential uses are generally identical.

Signage is to conform to the provisions of Section 93.20.00 et seq. of the Zoning Code (“Signs”). Street sign banners and kiosk signs would be allowed, which staff support subject to approval of a program for each defining location, size and lighting, as necessary.

Recommendation: Approve the development standards, as adjusted for the height limits sought by the Council, with the deletion of the maximum square footage table. Consider the allowance for open balconies to project into the right-of-way.

Design – Architecture and Landscaping

The Council addressed the issue of architectural and landscape design by focusing on the Plan’s direction on architectural style:

- Four comments agree that concentrating on “Modern” architecture is too limiting: One sought to emphasize “great” architecture regardless of style (but preferably consistent with Modern and Spanish Colonial Revival); two preferred no

predetermined style; and one substituted “contemporary” for “Modern” to allow greater flexibility.

Staff believes that adopting an open approach to architectural design allows more variety; however, staff remains persuaded that sustainability and conservation features will lead most designers to choose modern or contemporary styles. Again, most architectural styles developed in the last century will incorporate photo-voltaics and other sustainable technologies with greater elegance and integrity.

Recommendation: Identify the primary architectural goals or theme for the Specific Plan.

Road Network

Among the Council members, only one comment was offered on the Plan's proposed road network:

- Allow angle parking on Belardo Road.

The Plan presently includes angle parking on Belardo within the project area (west of Blocks A, B and C) so this comment is satisfied. (The EIR's Traffic Study recommends deletion of the angle parking shown along Palm Canyon and Indian Canyon Drives.)

As previously noted, staff believes that the creation of an internal street grid is the best way to establish a pedestrian-oriented downtown center. Also noted is the unique situation presented by Block K1 / K2. One of the most important decisions facing the Council in this project is weighing the trade-offs between preserving the Town & Country Center and the developing Museum Way from Indian Canyon Drive to the museum.

The draft EIR fully explains the historic value of the Town & Country Center (see pages III – 61-69 of the draft EIR). In contrast, completion of the street as proposed in the Plan provides the following benefits:

- Creates a visual link to the Desert Art Museum from Indian Canyon Drive and the Spa Hotel,
- Provides a more complete street grid to facilitate traffic movement and allow more flexible access routes, and
- Fulfills one of the project's goals, as stated in the draft EIR:
“Reintegrate the pedestrian and automobile back into the core of downtown by reconnecting Belardo Road and creating a new boulevard (Museum Way) from the Museum to Indian Canyon.”

Staff recommends that the Council carefully weigh these competing values, as well as the requirements for adopting a Statement of Overriding Consideration on the draft EIR prior to deciding its position on this issue.

Recommendation: Approve the street plan, except for deletion of angle parking from Palm Canyon and Indian Canyon Drives. Identify the Council's preference regarding the proposed street in Block K1 / K2.

Administration

No comments were offered on the Administration of the Plan; however, recommends that the City's current arrangement of AAC recommendation, Planning Commission review and City Council oversight is appropriate.

Recommendation: Delete the Museum Market Plaza Review Commission.

Phasing

No Council comments were provided regarding phasing. As previously noted, staff believes that establishment of the street grid is a key element for any "first phase". The property owner has indicated that the Plan needs to accommodate lesser renovation and remodel concepts without need for a wholesale Specific Plan amendment. Staff agrees, and notes that the scope and ambition of the Plan will likely take years to complete. Consequently, staff proposes that the Plan allow incremental improvements which move toward fulfillment of the Plan. Such projects could be reviewed by the Council and approved as conforming. If acceptable to the Council, staff will incorporate language to allow such determination.

Recommendation: Add sub-part D, entitled "Conformity Review Procedure" to Section V of the Specific Plan to read:

"D. Conformity Review Procedure.

1. A property owner within the specific plan boundary area may request a determination that a proposed project consisting in part of the rehabilitation, renovation, and/or remodel of existing buildings and facilities within the Specific Plan is generally consistent with the Specific Plan.

2. The property owner shall fully complete and file a request for Conformity Review describing the proposed project and identifying the rehabilitation, renovation, and remodel components and file such other information as the Planning Director may require. The filing may be schematic and conceptual; precise plans or drawings shall not be required unless the submission is proposed to be processed concurrently with an entitlement provided under the City's Zoning Ordinance. The filing and processing fees shall be assessed according to the City's resolution of fees and charges.

3. The Planning Director shall consider the request for Conformity Review and shall prepare written findings and recommendations to the City Council. The request for Conformity Review shall be considered by the City Council at a noticed public hearing pursuant Government Code section 6061. The City Council shall approve, conditionally approve, or deny the request. The decision of the Council is final.

4. In the review and consideration of the Conformity Request, the City Council shall consider whether:

- (i) The proposal reasonably furthers the goals or objectives of the Specific Plan;
- (ii) There are unique circumstances or components of the proposal that will enhance or benefit the Specific Plan area or neighboring properties or businesses;
- (iii) The proposal will promote the public health, safety, and welfare of the community.

5. Any approval or conditional approval of a request for Conformity Review shall be valid for up to 36 months. The property owner may request an extension by submitting such request to the Planning Director at least 45 days prior to expiration of such approval. The request for extension shall be submitted to the City Council and the City Council shall review and consider the proposal under the general criteria described in paragraph 4 of this sub-part D. The City Council may grant, conditionally grant, or deny the request. An extension granted pursuant to this paragraph shall not exceed 24 months. The decision of the Council is final.

6. Nothing in this sub-part D shall be construed as allowing or permitting any deviation from the maximum height or density requirements of the Specific Plan."

Plan Organization

No comments received.

Recommendation: Based on Council direction, staff will prepare the necessary ordinances and code language for final action.

NOTICE

Notice was provided to properties owners within 400 feet of the project and by advertisement in the Desert Sun. No written communications on the project have been received at the time this report was prepared. Any communications received subsequently will be presented at the meeting.

ENVIRONMENTAL:

(Note: This section is a complete reprint from the report of January 14, 2009)

A Final Environmental Impact Report (FEIR) has been prepared for the project and distributed to the City Council. The Environmental Summary Matrix (Section "M" of the DEIR) provides a brief overview of the anticipated impacts and recommended mitigation measures. Staff believes that the FEIR provides an adequate and complete description of the future environmental condition should the Specific Plan, as proposed, be implemented.

The FEIR identifies three areas in which the proposed Specific Plan would create “significant and unavoidable (i.e., unmitigatable) impacts”:

- Aesthetics – Partial blockage of mountain views would be caused by the taller buildings; the Town & Country Center would be eliminated by development on Block K1 / K2.
- Air Quality – Projected levels of emissions during construction (nitrogen oxides) and during operations (carbon monoxide and nitrogen oxides) would exceed State standards.
- Cultural Resources – The Town & Country Center – a historic resource, as defined by CEQA – would be eliminated by development of Block K1 / K2.

All other impacts can be adequately reduced to less than significant levels through mitigation measures outlined in the FEIR.

Significant, Unavoidable Impacts and Project Alternatives

The FEIR also examines a set of Project Alternatives to see if there are other ways to implement the overall project objectives while reducing potentially significant environmental impact – especially those which are considered significant and unavoidable. An analysis of several alternatives (see section V of the FEIR) shows that all alternatives – even the No Project option (re-use of the existing center) – results in significant and unavoidable air quality impacts.

Impacts to Aesthetics and Cultural Resources are reduced by each of the alternatives, in some degrees to less than significant levels. For example, all alternatives include a reduction in maximum building height from the draft Specific Plan:

- Draft Specific Plan: 74 feet
- Preserve Town & Country: 74 feet
- Alternative B : 65 feet
- Staff’s Recommendation: 60 feet
- Alternative A: 57 feet
- No Project 35 feet

Therefore, staff anticipates that as building height is reduced, there will be a reduced adverse impact on scenic views. However, except for the No Project alternative, the impact will remain significant and unavoidable; the No Project alternative will have a less than significant impact. Additionally, all projects will introduce additional light, glare, sensitive receptors into the area; again the No Project alternative will have the lowest impact.

As regards Cultural Resources, those alternatives that preserve the Town & Country Center adequately reduce the impacts to Cultural Resources. Staff believes that its set of recommendations, as contained in this report, also eliminates adverse, unavoidable impacts to Cultural Resources because it anticipates the preservation of the Town & Country Center. However, any alternative that preserves the Town & Country Center leaves one of the project objectives partially unfilled: Creation of a direct vehicular connection between Indian Canyon Drive and the Desert Art Museum. As previously noted, this is a key decision for redevelopment of the project area.

“Statement of Overriding Considerations”

In accordance with the California Environmental Quality Act (CEQA) the City may approve a project that results in significant and unavoidable impacts, including those mentioned above. CEQA is an information disclosure law, not a mandate to achieve a particular environmental outcome. Section 21002 of the State Public Resources Code identifies the Legislature’s intent in adopting CEQA:

21002. *The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.*

The City may conclude that “specific economic, social or other conditions” exist to override the concerns regarding one or more significant and unavoidable environmental impacts. If so, it must adopt a “Statement of Overriding Considerations” that identifies those conditions that warrant the acceptance of the resulting environmental impacts. The State CEQA Guidelines are more specific on the matter:

15093. Statement of Overriding Considerations

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

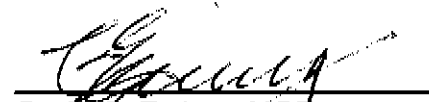
The decision to adopt a Statement of Overriding Considerations must be founded upon “economic, legal, social, technological, or other benefits of a proposed project”. In addition, they must be explicit and must be based on “substantial evidence”. One area that is recognized as a basis for an override is the set of project objectives. The City may determine that the project objectives are of such importance that their benefits “outweigh the unavoidable adverse environmental effects”.

As noted in Section V of the FEIR, the project objectives are as follows:


1. *Reintegrate the site into the economic, social and environmental fabric of the downtown.*
2. *Provide direct access to the Desert Art Museum from Downtown and Section 14.*
3. *Create an upscale, vibrant mixed use lifestyle center, including boutique shops, galleries, neighborhood conveniences, restaurants, residential units and boutique hotels, serving visitors and local residents.*
4. *Enhance the pedestrian environment and lower the dependence on the automobile by providing living, shopping and entertainment venues in a central location.*
5. *Encourage a variety of architectural designs, styles and heights with materials that include plaster, glass, stone, iron, masonry and concrete to create visual interest while utilizing the latest in green technology.*
6. *Reintegrate the pedestrian and automobile back into the core of downtown by reconnecting Belardo Road and creating a new boulevard (Museum Way) from the Museum to Indian Canyon.*

The question of an override must be addressed by the Council, because the proposed Specific Plan and all project alternatives adversely affect Air Quality. The Council may also determine that the project objectives – such as a through road from Indian Canyon Drive to the Desert Art Museum – or other factors support an override on Aesthetics (for building height and loss of the Town & Country Center) or Cultural Resources (again, the loss of the Town & Country Center). As previously noted, this is a key question raised by this project.

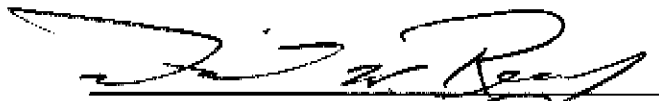
Staff recommends the Statement of Overriding Considerations for the issue of Air Quality and will prepare a Statement on Aesthetics and Cultural Resources, should that be the direction of the Council.



Craig A. Ewing, AICP,
Director of Planning Services



Thomas J. Wilson,
Assistant City Manager, Dev't Services



David H. Ready, City Manager

Attachments:

1. Staff Report (January 14, 2009)
2. City Council Meeting Minutes (January 14, 2009)
3. Draft Museum Market Plaza Specific Plan (previously distributed)
4. Draft Museum Market Plaza Specific Plan EIR (previously distributed)
5. Comments from January 14, 2009 public hearing (previously distributed)



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FROM: David H. Ready, City Manager

BY: Craig A. Ewing, AICP, Director of Planning Services

SUMMARY

In April, 2008 the City Council initiated General Plan and Zoning Text Amendments in response to a draft Specific Plan prepared and submitted to the City by the Wessman Development Company, titled the "Museum Market Plaza Specific Plan". The draft Specific Plan revises the development policies and standards for the Desert Fashion Plaza and certain adjacent properties. On December 3, 2008, the Planning Commission conducted a public hearing and voted 4 to 2 (Cohen & Donenfeld opposed; Conrad abstained) to adopt a recommendation to deny the proposed Specific Plan. A public hearing is required.

RECOMMENDATION:

1. Open the public hearing, accept any testimony and close the hearing.
2. Direct staff to prepare draft resolutions based on Council direction, including the certification of the Final Environmental Impact Report, adoption of Statement of Overriding Considerations, adoption of a Mitigation Monitoring Report, and approval of the Specific Plan, including any amendments, as appropriate.

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ANALYSIS

Introduction

The draft Specific Plan for the Museum Market Plaza (the "Plan") was presented to the City Council by Wessman Development, Inc. to facilitate and support the redevelopment of about twenty acres in the City's downtown core. In response, the Council initiated an amendment to both the Palm Springs General Plan and the Palm Springs Zoning Code. This is because the draft Specific Plan proposes goals and policies like a General Plan, as well as the technical development standards of a Zoning Code.

It is important to remember that the Specific Plan has the potential to amend the City's fundamental land use and community development policies as they apply to the site. To express it another way, even though we compare the Specific Plan to the existing General Plan and Zoning Code, the Specific Plan can also amend each of these documents. Therefore, the Specific Plan can – and should be – evaluated on its own merits. Key questions for the Council are: Does the proposed Specific Plan provide the right guidance to developing the properties it encompasses – both as an expression of General Plan goals and as a stand-alone document? If not, what changes are needed to make it right?

As noted above, staff has reviewed the Plan and conducted a comparison of the Plan with the General Plan, the Downtown Urban Design Guidelines and the Zoning Code. In addition to the overall question of “right guidance”, staff has considered two other questions:

- Does the Plan meet the Council's objectives for the area, as contained in the General Plan, Downtown Guidelines and Zoning Code?
- Does the Plan provide for effective and efficient review of future development proposals?

This staff report is only one element to be considered by the City Council in its review. Additional analysis is contained in the Final Environmental Impact Report (FEIR), including an evaluation of alternative plans and responses to comments. This staff report, the FEIR, the Planning Commission recommendation and public comments comprise the base of information on which the Council will conduct its discussion and make its decision.

To provide a working outline for the Council's deliberations, staff has evaluated the Specific Plan from several perspectives. The report is organized around the following topics:

- Overall Vision
- Project Scope
- Land Use
- Densities
- Height
- Setbacks, Open Space and other Standards
- Design – Architecture and Landscaping
- Street Network
- Administration
- Phasing
- Plan Organization

The report concludes with a discussion of the Planning Commission's action and the Environmental Impact Report, including significant, unavoidable impacts, project alternatives and the “Statement of Overriding Considerations”.

Overall Vision

The draft Plan's vision for the Museum Market Plaza generally conforms to that of the General Plan and Downtown Urban Design Guidelines for the Downtown core. All three documents envision a lively center for the community based on the historic street pattern and pedestrian orientation of the area. Dispersed throughout the opening sections of the Plan are goal-oriented phrases such as, “...lively, pedestrian-oriented townscape...”, “...ground floor activity...”, “...extending the hours of active use...”, and “...restore the circulation grid in the Downtown area” (see pages I – 1-2, II – 2-3, 6-7, and -9).

These statements match many of the intent statements of the General Plan and Downtown Guidelines. The Plan includes Appendix A, which offers a consistency analysis between the Plan and the goals and policies of the Palm Springs General Plan. Staff believes that Appendix A makes a reasoned and accurate comparison between the intentions of the draft Specific Plan and of the General Plan.

The Plan also seeks to ensure high-quality design and to implement LEED conservation principles; however, these are not identified in the front of the report (see pages III – 41-42). Staff believes that the sustainability goals could be more prominently featured in the opening

sections, but their inclusion allows staff to determine that the Plan's vision conforms to that of the City's adopted General Plan.

Recommendation: Approve the Specific Plan vision, and include Appendix A as a part of the findings for a resolution of recommendation.

Project Scope

Three "Planning Areas" are identified in the draft Plan (see Pages I – 3-4, and II – 1-3 and -6 and Exhibits I – 2 and -3, II – 3 and III – 1). Planning Area 1 ("PA-1") is the site of the Desert Fashion Plaza and comprises about 18.5 of the Plan's total 20.6 acres. PA-1 is comprised of "blocks" which are bounded by existing and proposed streets. Blocks A through H, and Blocks K1 and K2 are found here.

Planning Area 2 (Block L) is a vacant site at the southwest corner of Tahquitz Canyon Way and Cahuilla Road – the site of the proposed Palm Hotel. Planning Area 3 (Block J) is located at the northeast corner of Arenas and Belardo Roads, and is presently the back parking lot for the Mercado Plaza which fronts on South Palm Canyon Drive. The Plan proposes development on each of these sites.¹

The Plan's scope is within a fully developed area, but it does not provide a complete description of the existing conditions. Further, references to the setting's context are scattered throughout the Plan. Staff recommends that the Commission carefully review the draft EIR for a more complete assessment of the project's existing conditions.

The project scope was determined by the Wessman Development Company as part of the initial submittal. In initiating the General Plan and Zoning Code amendments, the City Council made no change to the project scope. However, the City Council directed staff to include a project alternative in the EIR that has the effect of deleting Blocks K1 and K2 from any significant new development. While this can be seen as reducing the project scope, staff does not believe any change is needed to the Specific Plan's boundaries or scope. Staff also notes that public comment has been received seeking removal of Block L, site of the proposed Palm Hotel².

Recommendation: Approve the Specific Plan's boundaries, as proposed.

Land Use

Underlying land uses permitted by the General Plan and the Zoning Code are carried forward in the draft Specific Plan (see Pages II – 6-7). The Plan shares the overall goal of creating a downtown center that includes hotels, first-floor retail, upper-floor office and residential, multi-level parking and a compact grid of streets to facilitate both pedestrian and vehicular access to a dense urban setting.

¹ Staff notes that Planning Areas 2 and 3 are left off some exhibits (see Exhibits II – 3, and III – 5 and -6).

² See attached letter from Historic Tennis Club Neighborhood Organization (Dec. 8, 2008).

The creation of blocks allows certain activities to be directed in the Plan, and it is noted that Block B is proposed to be a landscaped public plaza, with some low-rise retail development; Block J is designated for a parking structure, and Block L is designated for hotel use. The remaining blocks are designated for dense urban use, including retail, office, hotel, residential structured parking and related activities (see page III – 2).

Permitted Uses

Allowable uses appear to closely match the City's C-B-D (Central Business District) Zone (see pages III – 4-9). Certain uses which are currently subject to a Land Use Permit in the C-B-D zone are permitted by right in the Plan. Staff believes that the following uses should be subject to a Land Use Permit (LUP), Conditional Use Permit (CUP) or specific development standards, instead of being permitted by right. The basis for these recommendations is either to preserve the street frontage for retail uses or to assure that conditions on specific applications can be imposed:

Commercial and Retail	
Art Schools –	Not on Street Frontage
Cocktail Lounges –	LUP
Commercial Recreational Facilities –	Not on Street Frontage
Dance Studios –	Not on Street Frontage
Discotheques –	LUP
Drive-thru Coffee Shops, Drug Stores –	CUP
Gym, Fitness Center –	Not on Street Frontage
Liquor Stores –	LUP
Movie, Radio, TV Production & Broadcast Facilities –	CUP
Pet Shop, including Pet Grooming –	LUP
Private Clubs –	Not on Street Frontage
Slimming Salons, Health Clubs, Athletic Clubs –	Not on Street Frontage
Spa –	LUP
Video / Amusement Arcades & Machines –	LUP

Office and Related
No changes

Residential and Related
No changes

Resort Residential
No changes

Services
No changes

Public / Semi-public
 Festivals and Exhibits – LUP
 Lodges, Meeting Halls, Private Clubs – Not on Street Frontage

Automotive
No changes

Accessory Uses
 Outdoor Uses, All – LUP

Staff has no concerns with the sections regarding “Similar Uses” or “Prohibited Uses”

Recommendation: Adjust the list of permitted uses, as identified above.

Densities

One of the most prominent features of the Plan is the amount of development that it envisions. The Plan expresses the density of permitted development through several measures: Numbers of units, amount of square footage, overall bulk and maximum height. A key element of the Plan is the establishment of “maximum land use intensities” for overall build-out:

**Table II-1 / Page II-6
 Maximum Land Use Intensities**

Land Use	Planning Area 1	Planning Area 2	Planning Area 3	Total
Retail or Office (square feet)	385,000	15,000	N/A	400,000
Residential (dwelling units)	900	55	N/A	955
Hotel (rooms)	565	55	N/A	620

Under this concept, there are overall maximum numbers set for retail / office (in square feet), residential (in dwelling units) and hotels (in rooms). The Plan intends for actual development to be less than these totals due to other limits on height and bulk. The potential densities allow future development to be adjusted to contemporary market conditions; the exact proportion of each use will not be known until development comes on line. Staff believes that this is a reasonable approach to addressing mixed-use zoning, which is not addressed effectively by traditional zones such as R-1 and C-B-D.³

³ The City has typically used the Planned Development District to establish and regulate mixed use projects.

Proposed Plan v. Current Zoning

The basic limits of the current Central Business District (C-B-D) Zone are a floor area ratio (FAR) of 1.0 and a maximum height of 30 feet, and the Plan allows more development than permitted under these provisions. The Plan argues that it permits *less* development than could be allowed under the current “high-rise” regulations, as modified by Planned Development District approval (see Table III – 3, page III – 13).

It is not clear that this is actually the case as the Plan does not provide sufficient calculations to reliably support this argument. However, the underlying difference between the proposed Specific Plan and the “high-rise” ordinance (Palm Springs Zoning Code Section 93.04) is that the Specific Plan establishes these higher densities as a by-right condition, as compared with the requirement for a CUP or PD for the additional height allowed under the current code. Clearly one of the key decisions associated with adopting of the Specific Plan is how much additional density is desired by the City on these properties.

The Question of Density

Staff believes that additional density – both commercial and residential – is needed to facilitate a revival of the City’s downtown. However, allowing additional density and actually achieving it are two different matters. Economic and demographic factors figure more prominently in the redevelopment of the community than the adoption of zoning rules – the City cannot “command” the economy with only a General Plan and zoning code; at best, it can only ‘nudge’ it a little. Further, the City has already experienced the results of approving higher density, mixed-use projects: They are difficult to accomplish even in the best of economic times.

If adding more density alone is no guarantee of a desired outcome, what should be the basis for the Specific Plan’s density limits? Going from, say, 200 residential units to 500 or 955 will not solve the problems of mismatched demographics or a weakened economy. Instead, staff believes that the Specific Plan should seek a density that provides a reasonable opportunity for economic success, while achieving the community’s other goals of a vibrant downtown, appropriate physical scale and suitable public services (transportation, etc.)

A Density for the “Center of the Center”

The long-term perspective of the Specific Plan allows the City to establish a maximum density, and then work over time with land owners and developers to achieve a project that succeeds at all levels. In order to suggest an appropriate maximum density, staff considered that the Desert Fashion Plaza site and surroundings is recognized as the “center of the center” of the City. Physically, this typically means that it should also be the most dense, concentrated, and, by extension, tallest part of the community.

Staff believes that the proposed Specific Plan densities do not add value to the community for simply being higher numbers. Instead, staff has concluded that a range of densities closer to – but perhaps lower than – Alternative B of the draft EIR is more appropriate to the long-range benefit of the City:

Type of Use	Proposed Draft Specific Plan	Project Alternative "B"	Staff Recommendation
Residential Units	955	765	300
Commercial / Office SF	400,000	300,000	300,000
Hotel Rooms	620	255	600

Note that staff recommends that the proportion of permanent residential versus hotel rooms, should be reversed from that proposed in either the project or Alternative "B". We believe that this is a better land use arrangement for several reasons:

- Downtown living is more likely to appeal to short-term visitors than permanent residents,
- Hotel guests are found shopping in a downtown retail environment more than permanent residents,
- Hotel rooms are typically smaller which reduces overall building mass, and
- Many of the residential units will be occupied only part-time, while hotels will work to fill rooms as much as possible – more activity throughout the year is likely.

Recommendation: Approve the maximum densities, as recommended by staff above.

Height

Within Planning Area 1 (site of the existing Desert Fashion Plaza) five of the six blocks propose building heights in excess of the 60 feet. Sixty feet is the maximum height allowed in the high-rise ordinance and envisioned in the Downtown Guidelines. The maximum proposed height in Blocks A and C is 67 feet, while 79 feet would be permitted within Blocks D/F, E/G/H and K1/2. (The remaining Block B is proposed as an open plaza with small, one-story restaurants.) In Planning Area 2 (Block L) the maximum height would be 44 feet⁴ and in Planning Area 3 (Block J) no more than 34 feet would be allowed.

**Table III-2 (Part) / Page III-10
 Development Standards**

	PA1	PA2	PA3
Max. Building Height (Feet)			
• Build Out Overall Average	60	44	34
• Block A	67		
• Block B	24		
• Block C	67		
• Block D & F	67/79		
• Block E, G, H	67/79		
• Block J			34
• Block K	79		
• Block L		44	

The Plan notes that, taken together, the overall average height of all buildings within the Specific Plan would be 60 feet. The use of "average height" over different sites is not part of

⁴ The "Palm Hotel" was previously approved for this site by the City at a height of 44 feet.

the Guidelines or Zoning Code, and the Plan introduces a new logic to the regulation of height – that taller and shorter buildings can be averaged to meet a single standard. Staff does not support this concept, but does believe that individual blocks can have different heights appropriate to their size, location and orientation to surrounding properties and views.

The Specific Plan provides a means by which the City Council could allow alternative height standards for the area. Staff believes that the heights proposed are more than required for staff's recommended density for residential, but that additional heights can be justified for hotel uses. A maximum height of 60 feet overall should be maintained, with the following additional provisions:

1. Buildings should be lower (30 to 45 feet) as they approach the edges of the Specific Plan boundaries, especially along Tahquitz Canyon Way, east of Belardo, and along Palm Canyon Drive.
2. An exception to the "edge" policy should be allowed at the corner of Tahquitz and Palm Canyon to create a landmark intersection statement.
3. Blocks containing hotels may exceed the height limits established in the Specific Plan, subject to approval by the City Council.

Block K1 / K2 presents a special condition: It is proposed to be allowed a maximum height of 45 feet, but is developed with structures identified in the draft EIR as meeting the CEQA definition of a "historic resource". The draft EIR concludes that a significant and unmitigatable adverse impact on cultural resources would result from the Block's redevelopment. Depending on the Council's decisions regarding Block K1 / K2, little to no new development may result on the site. Nevertheless, staff believes that a maximum height limit does not preclude protection of the structures and may provide for adaptive re-use in the future.

Recommendation: Adopt a revised maximum building height standard as follows:

• Block A	45		
• Block B	24		
• Block C	60		
• Block D & F	60/45		
• Block E, G, H	60		
• Block J			34
• Block K	45		
• Block L		45	

Additional provisions:

1. Buildings shall be lower (30 to 45 feet) as they approach the edges of the Specific Plan boundaries, especially along Tahquitz Canyon Way, east of Belardo, and along Palm Canyon Drive.
2. An exception to the "edge" policy is allowed at the corner of Tahquitz and Palm Canyon to create a landmark intersection statement, subject to approval by the City Council.
3. Blocks containing hotels may exceed the above height limits, subject to approval by the City Council.

Setbacks, Open Space and other Standards

The Specific Plan provides a block-by-block set of standards for setbacks, open space, maximum square footage, projections, outdoor uses, walls and fences, parking and other incidental issues (see Pages III – 10-17). Staff has conducted a comparison with the provisions of the C-B-D zone and notes that generally the Plan's standards are similar or the same.

One noteworthy deviation is a complex "step-back" scheme for each of the streets when buildings exceed 30, 45 and 67 feet, where such additional height is allowed (see Table III – 2). These would replace the uniform setback standard of the "high-rise" ordinance (three feet horizontal setback for each foot of height) which is often modified for taller buildings through the approval of Planned Development Districts. Staff believes the step-backs proposed in the plan allow two story buildings on most street frontages to provide a reasonable relationship between building and street.

Open space requirements are 35% minimum for all Blocks, except the open plaza on Block B. This plaza space would be 75% open space, allowing for some low-rise retail / restaurant uses. Staff supports allowing limited low-rise development on this block as it has been shown that people tend to make more use of plazas that are 'activated' with restaurants, kiosks, entertainment and other organized uses than they do with vacant, landscaped space.

Building mass is directed by Table III – 3, which shows the maximum square footage allowed in each Block. Staff's recommendation for lower densities and heights would modify this chart as would each of the project alternatives considered in the draft Environmental Impact Report (see below). Staff believes that the heights, densities, setbacks and parking requirements provide sufficient guidance to development of the site and that this chart may be superfluous. In any event, the numbers shown on Table III – 3 do not add up correctly and the Table would need to be modified based on the actions of the Commission and Council on density and height.

The Plan provides standards that allow upper floor balconies to extend over the sidewalk right-of-way. Staff believes such projections contradict the idea of stepping back from the street and recommends that they be eliminated.

Parking is treated in the Plan at a base standard of one space for each 325 square feet of floor area for most commercial uses. This compares with the same standard for mixed use development in the Zoning Code's C-B-D zone. Hotel uses are to be parked at a slightly higher ratio than called for in the zoning code, and residential uses are generally identical.

Signage is to conform to the provisions of Section 93.20.00 et seq. of the Zoning Code ("Signs"). Street sign banners and kiosk signs would be allowed, which staff support subject to approval of a program for each defining location, size and lighting, as necessary.

Recommendation: Approve the development standards, with the deletion of the maximum square footage table and deletion of the allowance for balconies to project into the right-of-way.

Design – Architecture and Landscaping

A significant portion of the draft Plan is devoted to a discussion of architecture and landscaping, including massing and style of buildings, streetscapes and open spaces, and landscaping. An overall design theme is suggested, but the text allows such a variety of architectural treatments – Modernist, Spanish and Mediterranean are considered acceptable – that no “theme” for design is actually proposed.

It may be better to avoid identifying a single, adopted architectural style in the Specific Plan. However, Modernism has demonstrated a lasting and powerful influence on development in the community for most of the last sixty years, and it provides a number of significant benefits to the redevelopment of downtown over other styles:

- Reinforces the architectural uniqueness of Palm Springs,
- Provides a sufficiently wide “palette” for creativity within the genre,
- Allows lower cost structures to display elegance and creativity, and
- Allows an easier integration of photo-voltaics and other sustainable technologies into building design

Staff believes the Council should consider the option of establishing a Modernism theme for the Specific Plan.

The Specific Plan is more successful in its discussion of individual design features and objectives, such as distinctive corner treatments, well-defined entries, upper-story street setbacks, and articulated facades. These provisions should be retained regardless of whether or not a specific architectural style is adopted for the Plan.

The Plan recognizes the importance of certain elevations based on their contextual setting, including those facing the Palm Spring Art Museum, and the O’Donnel Golf Course. A discussion of landscaping includes Major and Minor entries, Major and Minor focal points, and three landscape “zones” (Streetscape, Transition and Open Space).

Recommendation: Consider establishing a Modern architectural theme for the Specific Plan.

Road Network

A key element of the draft Plan’s redevelopment program is the establishment of a grid roadway network within Planning Area 1 (existing Desert Fashion Plaza) that brings the surrounding street pattern into and through the site, as follows:

- Belardo Road would be connected through the site to its current alignments north of site (behind the Hyatt Hotel) and south of the site at Tahquitz Canyon Way.
- A new east-west street dubbed “Museum Way” would be constructed from Indian Canyon Way to its terminus in front of the Desert Art Museum.
- A short secondary east-west street would be built along the north edge of Block B (“Main Plaza”) between North Palm Canyon Drive and the future Belardo Road.
- A portion of the existing Museum Drive along the O’Donnel Golf Course is proposed to be abandoned, with the land incorporated into the Block H parking structure.

The Plan's street grid is generally consistent with the General Plan Circulation Map, but will amend portions of the Circulation Map based on the changes described above.

Staff believes that the street network is the single most important feature of the draft Plan, because the street layout establishes and secures the pattern, form and relationships of future buildings. The proposed grid retains and extends the use of small blocks found downtown, but moves beyond the linear form set by Palm Canyon and Indian Canyon Drives. In the Plan, a collection of small blocks defined by multiple north-south and east-west streets sets the stage for a pedestrian-friendly setting, with multiple storefronts, a variety of points of interests, and opportunities for exploration and discovery. Regardless of the ultimate build-out (height, massing, density, etc.) the layout of the streets is the foundation for the future of the Museum Market Plaza area.

Similar to the discussion of height (above), Block K1 / K2 presents a unique situation. The Plan proposes a new street – Museum Way – from Indian Canyon Drive to its terminus in front of the Desert Art Museum. There appears to be no way to implement this concept without eliminating the Town & Country Center. However, the draft EIR identifies the buildings on Block K1 / K2 as meeting the definition of a "historic resource" under CEQA and that their removal would be a significant, unmitigatable adverse impact. Consequently, one of the most important decisions facing the Council in this project is weighing the trade-offs between preserving the Town & Country Center and the developing Museum Way from Indian Canyon Drive to the museum.

The draft EIR fully explains the historic value of the Town & Country Center (see pages III – 61-69 of the draft EIR). In contrast, completion of the street as proposed in the Plan provides the following benefits:

- Creates a visual link to the Desert Art Museum from Indian Canyon Drive and the Spa Hotel,
- Provides a more complete street grid to facilitate traffic movement and allow more flexible access routes, and
- Fulfills one of the project's goals, as stated in the draft EIR:
"Reintegrate the pedestrian and automobile back into the core of downtown by reconnecting Belardo Road and creating a new boulevard (Museum Way) from the Museum to Indian Canyon."

Staff recommends that the Council carefully weigh these competing values, as well as the requirements for adopting a Statement of Overriding Consideration on the draft EIR (see below) prior to deciding its position on this issue.

The street sections found on Exhibits IV – 1A-1B (pages IV – 3-4) coincide with the expected hierarchy of the street grid system. Street parking – both angle and parallel – are provided within the Plan's street circulation system. Angle parking has several impacts:

- Ease of entry,
- Difficulty of exiting,
- A calming effect on through traffic,
- A greater separation between sidewalk pedestrians and moving vehicles, and
- The potential to provide more spaces (in longer, uninterrupted blocks).

However, the conflict between angle parking motions and higher-speed through-traffic can create potential hazards. As noted in the Traffic Study prepared for the Environmental Impact Report, angle parking is not recommended for Palm Canyon or Indian Canyon Drives. Within the secondary roads (Museum Way, Belardo Road, etc.) angle parking can safely be considered. Staff supports the use of angle parking on these streets, where it can be shown to be safe and effective, but in no case on Palm Canyon or Indian Canyon Drives.

The Plan indicates that the new streets in Planning Area 1 will be private. The decision on whether they are public or private is reserved to the City Council; at this time only the location, alignment and width are of importance.

Recommendation: Approve the street plan, except for deletion of angle parking from Palm Canyon and Indian Canyon Drives.

Administration

As a Specific Plan, there are no buildings proposed at this time. Instead, the Plan sets the rules for future development projects, including a set of rules for the review process, including special application requirements and a dedicated review body. Cumulative density, use and parking calculations will be required by each application to assure that overall development under the "potential maximum densities" is monitored.

A "Museum Market Plaza Review Commission" is proposed to conduct hearings and adopt recommendations on development applications. While this Commission is proposed to be comprised of members of the Architectural Advisory Committee, Planning Commission and City Council, it would allow projects to bypass review by the AAC and PC. Staff believes that the proposed commission would not benefit the future project, and that it is not constituted as proposed to meet the City's current ordinances governing Boards and Commissions. Further, staff believes that the current arrangement of AAC review and Planning Commission recommendation is appropriate and will provide effective and efficient review of future proposals.

Recommendation: Delete the Museum Market Plaza Review Commission.

Phasing

The redevelopment of the Museum Market Plaza will require several years, and an "anticipated" phasing plan is proposed. However, the Plan discusses phasing as a function of market forces, and staff considered the proposed phasing plan to be only an example of how phasing might occur rather than as a mandated schedule. That said, any phasing plan should include as its first element the construction of the street grid and public plaza, followed by the various blocks of buildings. Staff supports the completion of the street grid as the first step in redevelopment of the area. Subsequent development activity may be more difficult to predict and staff does not recommend establishing a particular order for development of the resulting blocks.

Recommendation: Approve only a Phase 1 requirement to establish the full street grid; delete any requirements for subsequent phasing.

Plan Organization

As an amendment to both the General Plan and Zoning Code, the draft Plan relies primarily on narrative texts, charts and exhibits to describe the rules for redeveloping the area. Many of the provisions of the Plan need to be restated as regulations in the same way that zoning standards are written in the City's Code. Staff will work to identify and express these rules in a more regulatory format following Council action on the project.

Recommendation: No actions at this time.

PLANNING COMMISSION ACTION

On December 3, 2008, the Planning Commission conducted a public hearing on the draft Specific Plan and draft Environmental Impact Report. At that time, the Commission received public testimony from the Wessman Development Company about a proposed refurbishment of the existing Desert Fashion Plaza shopping center, as well as testimony from others (see attached draft meeting minutes). The Commission concluded that the draft Specific Plan would not be necessary in light of the commitment by Wessman to re-open the Desert Fashion Plaza and recommended that the Specific Plan be denied (see attached resolution).

NOTICE

Notice was provided to properties owners within 400 feet of the project and by advertisement in the Desert Sun. Written communications on the project received prior to the preparation of this report are attached. Any additional communications will be presented at the meeting.

ENVIRONMENTAL:

A Final Environmental Impact Report (FEIR) has been prepared for the project and distributed to the City Council. The Environmental Summary Matrix (Section "M" of the DEIR) provides a brief overview of the anticipated impacts and recommended mitigation measures. Staff believes that the FEIR provides an adequate and complete description of the future environmental condition should the Specific Plan, as proposed, be implemented.

The FEIR identifies three areas in which the proposed Specific Plan would create "significant and unavoidable (i.e., unmitigatable) impacts":

- Aesthetics – Partial blockage of mountain views would be caused by the taller buildings; the Town & Country Center would be eliminated by development on Block K1 / K2.
- Air Quality – Projected levels of emissions during construction (nitrogen oxides) and during operations (carbon monoxide and nitrogen oxides) would exceed State standards.

- Cultural Resources – The Town & Country Center – a historic resource, as defined by CEQA – would be eliminated by development of Block K1 / K2.

All other impacts can be adequately reduced to less than significant levels through mitigation measures outlined in the FEIR.

Significant, Unavoidable Impacts and Project Alternatives

The FEIR also examines a set of Project Alternatives to see if there are other ways to implement the overall project objectives while reducing potentially significant environmental impact – especially those which are considered significant and unavoidable. An analysis of several alternatives (see section V of the FEIR) shows that all alternatives – even the No Project option (re-use of the existing center) – results in significant and unavoidable air quality impacts.

Impacts to Aesthetics and Cultural Resources are reduced by each of the alternatives, in some degrees to less than significant levels. For example, all alternatives include a reduction in maximum building height from the draft Specific Plan:

- Draft Specific Plan: 74 feet
- Preserve Town & Country: 74 feet
- Alternative B : 65 feet
- Staff's Recommendation: 60 feet
- Alternative A: 57 feet
- No Project 35 feet

Therefore, staff anticipates that as building height is reduced, there will be a reduced adverse impact on scenic views. However, except for the No Project alternative, the impact will remain significant and unavoidable; the No Project alternative will have a less than significant impact. Additionally, all projects will introduce additional light, glare, sensitive receptors into the area; again the No Project alternative will have the lowest impact.

As regards Cultural Resources, those alternatives that preserve the Town & Country Center adequately reduce the impacts to Cultural Resources. Staff believes that its set of recommendations, as contained in this report, also eliminates adverse, unavoidable impacts to Cultural Resources because it anticipates the preservation of the Town & Country Center. However, any alternative that preserves the Town & Country Center leaves one of the project objectives partially unfilled: Creation of a direct vehicular connection between Indian Canyon Drive and the Desert Art Museum. As previously noted, this is a key decision for redevelopment of the project area.

“Statement of Overriding Considerations”

In accordance with the California Environmental Quality Act (CEQA) the City may approve a project that results in significant and unavoidable impacts, including those mentioned above. CEQA is an information disclosure law, not a mandate to achieve a particular environmental outcome. Section 21002 of the State Public Resources Code identifies the Legislature's intent in adopting CEQA:

21002. *The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.*

The City may conclude that "specific economic, social or other conditions" exist to override the concerns regarding one or more significant and unavoidable environmental impacts. If so, it must adopt a "Statement of Overriding Considerations" that identifies those conditions that warrant the acceptance of the resulting environmental impacts. The State CEQA Guidelines are more specific on the matter:

15093. Statement of Overriding Considerations

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The decision to adopt a Statement of Overriding Considerations must be founded upon "economic, legal, social, technological, or other benefits of a proposed project". In addition, they must be explicit and must be based on "substantial evidence". One area that is recognized as a basis for an override is the set of project objectives. The City may determine that the project objectives are of such importance that their benefits "outweigh the unavoidable adverse environmental effects".

As noted in Section V of the FEIR, the project objectives are as follows:

1. *Reintegrate the site into the economic, social and environmental fabric of the downtown.*
2. *Provide direct access to the Desert Art Museum from Downtown and Section 14.*
3. *Create an upscale, vibrant mixed use lifestyle center, including boutique shops, galleries, neighborhood conveniences, restaurants, residential units and boutique hotels, serving visitors and local residents.*
4. *Enhance the pedestrian environment and lower the dependence on the automobile by providing living, shopping and entertainment venues in a central location.*
5. *Encourage a variety of architectural designs, styles and heights with materials that include plaster, glass, stone, iron, masonry and concrete to create visual interest while utilizing the latest in green technology.*
6. *Reintegrate the pedestrian and automobile back into the core of downtown by reconnecting Belardo Road and creating a new boulevard (Museum Way) from the Museum to Indian Canyon.*

The question of an override must be addressed by the Council, because the proposed Specific Plan and all project alternatives adversely affect Air Quality. The Council may also determine that the project objectives – such as a through road from Indian Canyon Drive to the Desert Art Museum – or other factors support an override on Aesthetics (for building height and loss of the Town & Country Center) or Cultural Resources (again, the loss of the Town & Country Center). As previously noted, this is a key question raised by this project.

Staff recommends the Statement of Overriding Considerations for the issue of Air Quality and will prepare a Statement on Aesthetics and Cultural Resources, should that be the direction of the Council.

Craig A. Ewing, AICP,
Director of Planning Services

Thomas J. Wilson,
Assistant City Manager, Dev't Services

David H. Ready, City Manager

Attachments:

1. Draft Museum Market Specific Plan (previously distributed)
2. Environmental Impact Report; Final / Comments and Responses (attached)
3. Environmental Impact Report; Draft (previously distributed)
4. Planning Commission Resolution No. 7187
5. Planning Commission Meeting Minutes, draft excerpts (Dec. 3 and 17, 2008)
6. Letter from Historic Tennis Club Neighborhood Organization (Dec. 8, 2008)

PALM SPRINGS CITY COUNCIL
MINUTES
WEDNESDAY, JANUARY 14, 2009
CITY COUNCIL CHAMBER

CALL TO ORDER: Mayor Pougnet called the meeting to order at 6:03 p.m.

PLEDGE OF ALLEGIANCE: Mayor Pougnet led the Pledge.

ROLL CALL:

PRESENT: Councilmember Foat, Councilmember Hutcheson, Councilmember Weigel, Mayor Pro Tem Mills, and Mayor Pougnet.

ABSENT: None.

ALSO PRESENT: City Manager Ready, City Attorney Holland, City Clerk Thompson.

PRESENTATIONS: David Hill, Palm Springs Hyatt Regency Suites, provided an update to the City Council on the current progress of the renovations at the Hyatt. Mayor Pougnet announced the recipients of the 2009 Human Rights Awards.

REPORT OF CLOSED SESSION: City Attorney Holland reported that at 4:30 p.m. the meeting was called to order and the City Council recessed into Closed Session to discuss Items on the posted Closed Session Agenda. No reportable actions were taken.

ACCEPTANCE OF THE AGENDA:

ACTION: Accept the Agenda as presented. **Motion Mayor Pro Tem Mills, seconded by Councilmember Foat and unanimously carried on a roll call vote.**

1. PUBLIC HEARING:

- 1.A. PROPOSED DRAFT SPECIFIC PLAN (GENERAL PLAN AND ZONING TEXT AMENDMENTS) FOR MUSEUM MARKET PLAZA TO ALLOW UP TO 955 HIGH-DENSITY RESIDENTIAL UNITS, UP TO 400,000 SQUARE FEET OF COMMERCIAL RETAIL AND OFFICE SPACE, AND UP TO 620 HOTEL ROOMS LOCATED AT THE NORTHWEST CORNER OF NORTH PALM CANYON DRIVE AND TAHQUITZ CANYON WAY, AND OTHER NEARBY PROPERTIES, CASE 5.1204:**

Staff Report Item 1.A.

Mayor Pougnet presented an introduction and history of the Desert Fashion Plaza and the need for a specific plan, requested staff address the purpose of the specific plan, stated the action for the City Council decision does not entitle a project, but the initiation of the Specific Plan.

Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated January 14, 2009.

Councilmember Foat requested staff clarify the staff recommendation for not removing Block L from the Specific Plan, requested staff explain any impact to the EIR based on the alternatives and changes being proposed, and to address the traffic report with respect to parking for Indian Canyon Drive.

Mayor Pougnet opened the public hearing, and the following speakers addressed the City Council.

EMILY HEMPHILL, Representing Wessman Development, stated Wessman Development submitted a letter withdrawing the decision, commented on the discrepancies between the Specific Plan and the Wessman Development Desert Fashion Plan Remodel Plan, requested the continuance for the consideration of the Specific Plan for 90-days for the City to review the Remodel Plan, commented on the Specific Plan and the alternatives in the EIR based on residential units which cannot support the project, stated the EIR does not reflect the timing delay and provides inaccurate timetables due to the current economic conditions, commented on Alternative A for the reservation of land for use as park space, commented on the change in the Specific Plan for use of the O'Donnell Golf Course, the arbitrary reduction of units, density and height, and reiterated the request to continue the Public Hearing for 90-days.

CHARLES CANTRELL, stated the City has an immediate need for a vibrant shopping experience in Downtown as soon as possible, and the need for other types of entertainment.

CHRIS LUHRS, stated Wessman Development should be provided the opportunity to present and move forward with his Remodel Plan.

VIC GAINER, stated the Specific Plan is a pipe dream and the City needs to get back to reality, and requested the City Council delay the plan for 90-days to consider the Remodel Plan.

KAREN TABBAH, stated she has been disappointed by the lack of activity on the Desert Fashion Plaza, and urged the City Council to fast track the new Remodel Plan.

MARSHALL ROATH, commented on the inclusion of Block L in the Plan, recommended the City not include Block L in the Specific Plan, stated his opposition to closing the street near and along the Museum, stated Amado should go through to Belardo, and stated the Town and County Center should be removed from the Plan.

SHERYL HAMLIN, stated the projects under the Specific Plan will probably not be built, stated the City does not need a Specific Plan as the City has the Downtown Urban Design Guidelines, the Specific Plan is

flawed in many ways, and recommended the City Council abandon the Specific Plan.

PAULA AUBURN, stated the Specific Plan will narrow the future Development in the Downtown area, and the City needs a project that is unique and with scale-ability that enhances creativity with developers.

TODD LARSON, provided his vision of the Downtown and the use of the current buildings in the area, and stated the Remodel Plan can start in 6-months.

CLINTON GREENE, stated the City is not moving forward, and recommended that the City Council delay the adoption of the Specific Plan for 6-months.

JOY MEREDITH, requested the City Council postpone going forward with the Specific Plan for 6-months to review the Remodel Plan, and stated the General Plan and Downtown Urban Design Guidelines are sufficient.

G.P. GERBER, stated his support of the Wessman Remodel Plan, and the Specific Plan has not been effective.

RON MARSHALL, stated his support for the designation of the Town and Country Center as a Class 1 Historic Site.

LAURA WALSH, stated we have wonderful stores in the Downtown area, and requested the City Council delay the Specific Plan and review the Remodel Plan.

LEONARD SAGER, commented on the problems with developments retaining financing and capital to develop, stated his support to open Museum Drive through to the Museum.

DAVID CYR, stated his support for fast tracking the Wessman Remodel Plan.

BOB HELBLING, stated the City needs to move forward, but the City should not adopt a Specific Plan if it would hinder the Wessman Remodel Plan, requested the City Council delay the Specific Plan.

SHEILA CHRISTENSON, stated her support to delay the adoption of the Specific Plan to review the Remodel Plan.

FRANK TYSEN, commented on the Planning Commission recommendations and stated the recommendations should be drastically scaled down in terms of density and height, stated his support for a boutique hotel, and recommended the City move forward with the scaled down Specific Plan as it would not hinder the Remodel Plan.

CODY STOUGHTON, stated his support for the preservation of the Town and Country Center.

No further speakers coming forward, the public hearing was closed.

Councilmember Foat stated the City Council is not voting on any action tonight, commented on the previous City Council direction to create movement and action by Wessman Development toward the development of the Desert Fashion Plaza.

City Attorney Holland commented on issues by Wessman Development as to the inconsistency between the Specific Plan and the Remodel Plan, and stated the Specific Plan would not hinder any Remodel Plan.

Councilmember Hutcheson stated the Remodel Plan should be reviewed in a timely manner by the AAC and Planning Commission, stated his support for the Specific Plan for opportunities and alternatives for the Downtown area, and requested staff address the opportunity to modify the Specific Plan.

Mayor Pro Tem Mills commented on the numerous plans and changes to previous plans submitted by Wessman Development, commented on the expedient review and preparation of the Specific Plan by staff, the importance of the project as the central hub area of the City, and stated the Plan is for the future development of Downtown and not a plan or vision based on the current economic conditions and problems.

The City Council recessed at 7:47 p.m.

The City Council reconvened at 7:55 p.m.

Councilmember Weigel requested staff address how long, and the process from this point forward, to get Wessman through the process for the Remodel Plan, requested staff comment on the right to the entitlements for the Remodel Plan and for amendments to the current entitlements, requested staff address the hybrid Specific Plan as recommended by staff, the differences between the current Downtown Urban Design Guidelines, thanked Wessman Development for bringing something forward and challenged Wessman Development to bring forth a viable project to move forward.

Councilmember Hutcheson recommended the City Council refer comments to staff and the Downtown Subcommittee to compile comments and make further recommendations.

Mayor Pro Tem Mills requested Planning Staff, the City Attorney, and Wessman Development meet to determine the Remodel Plan objectives, requested the Remodel Plan be expedited through the process with the

Subcommittees of the AAC, the Planning Commission and the City Council.

ACTION: Direct staff and the City Council Downtown Subcommittee to consolidate City Council comments and compile further recommendations for the City Council. **Motion Councilmember Hutcheson, seconded by Councilmember Foat and unanimously carried on a roll call vote.**

PUBLIC COMMENT:

SHERYL HAMLIN, thanked the City Council for the support of the Opera in the Park event scheduled in April, 2009.

COUNCILMEMBER COMMENTS:

Councilmember Foat commented on the upcoming Dog Day Afternoon event at the Palm Springs Stadium.

Mayor Pougnet commented on the recent City of Palm Springs Juried Art Show at the Palm Springs Library.

CITY MANAGER'S REPORT: None.

ADJOURNMENT: The City Council adjourned at 8:12 p.m. to a Regular Meeting, Wednesday, January 21, 2009, at 6:00 p.m. in the Council Chamber, City Hall, preceded by a Closed Session at 4:30 p.m., Small Conference Room, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

MAYOR

ATTEST:

City Clerk

**CITY OF PALM SPRINGS
PUBLIC HEARING NOTIFICATION**



CITY CLERK'S DEPARTMENT
James Thompson, City Clerk

Meeting Date: April 1, 2009
Subject: Museum Market Plaza, Case 5.1204 GPZ/Zone Code Amendment

AFFIDAVIT OF MAILING

I, Kathie Hart, CMC, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was mailed to each and every person on the attached list on March 20, 2008, in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at Palm Springs, California. (131 notices)

I declare under penalty of perjury that the foregoing is true and correct.

Handwritten signature of Kathie Hart in black ink.

Kathie Hart, CMC
Chief Deputy City Clerk

AFFIDAVIT OF PUBLICATION

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was published in the Desert Sun on March 21 2009.

I declare under penalty of perjury that the foregoing is true and correct.

Handwritten signature of Kathie Hart in black ink.

Kathie Hart, CMC
Chief Deputy City Clerk

AFFIDAVIT OF POSTING

I, Dolores Strickstein, Secretary, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board and in the Office of the City Clerk on March 20, 2009.

I declare under penalty of perjury that the foregoing is true and correct.

Handwritten signature of Dolores Strickstein in black ink.

Dolores Strickstein
Secretary



City of Palm Springs

Office of the City Clerk

3200 E. Tahquitz Canyon Way • Palm Springs, California 92262
Tel: (760) 323 8204 • Fax: (760) 322 8332 • Web: www.palmsprings-ca.gov

March 20, 2009

Ms. Claudia Salgado
Bureau of Indian Affairs
P. O. Box 2245
Palm Springs, CA 92263

Dear Ms. Salgado:

RE: City Council Meeting – April 1, 2009
Museum Market Plaza – Case 5.1204 GPZ/Zone Code Amendment

The City Council of the City of Palm Springs will be conducting a public hearing relating to the above referenced on January 7, 2009. Enclosed are 4 copies of the public hearing notice to be forwarded to the appropriate Indian landowner within the 400 ft. radius of the project location as listed below:

APN 508-041-12

Please feel free to contact me if there are any questions or concerns, 323-8206.

Sincerely,

Kathie Hart, CMC
Chief Deputy City Clerk

/cab PHN to BIA – MuseumMarketPlaza 04-01-2009.doc

Encl: Public Hearing Notice

NOTICE OF PUBLIC HEARING
CITY COUNCIL
CITY OF PALM SPRINGS

CASE 5.1204 GENERAL PLAN AMENDMENT AND ZONING CODE AMENDMENT
MUSEUM MARKET PLAZA SPECIFIC PLAN
(DOWNTOWN PALM SPRINGS)

NOTICE IS HEREBY GIVEN that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting of April 1, 2009. The City Council meeting begins at 6:00 p.m., in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

The purpose of the hearing is to consider a draft Specific Plan initiated by the City of Palm Springs as an amendment to the Palm Springs General Plan and Zoning Code. As proposed, the draft Specific Plan would allow up to 955 high-density residential units, up to 400,000 square feet of commercial retail and office space, and up to 620 hotel rooms. The 20-acre site is generally located at the northwest corner of North Palm Canyon Drive and Tahquitz Canyon Way. The proposed Specific Plan also include lands between Palm Canyon Drive and Indian Canyon Drive, north of Tahquitz Canyon Way and south of Andreas Road; at the southwest corner of Cahuilla Road and Tahquitz Canyon Way; and at the northeast corner of Belardo Road and Arenas Road.

ENVIRONMENTAL DETERMINATION: A Final Environmental Impact Report (FEIR) has been prepared for this project under the California Environmental Quality Act (CEQA) guidelines and will be reviewed by the City Council at the hearing. Members of the public may view this document at the Planning Services Department, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday and submit written comments at, or prior to, the City Council meeting.

REVIEW OF PROJECT INFORMATION: The Draft Specific Plan, Final EIR and other supporting documents regarding this project are also available for public review at City Hall between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Please contact the Office of the City Clerk at (760) 323-8204 if you would like to schedule an appointment to review these documents.

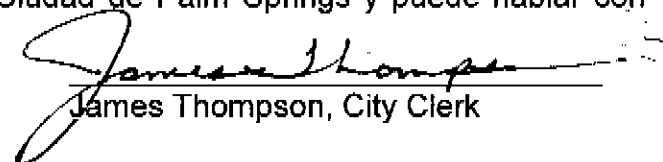
COMMENT ON THIS APPLICATION: Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (for mail or hand delivery) to:

James Thompson, City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior, to the public hearing. (Government Code Section 65009(b)(2)).

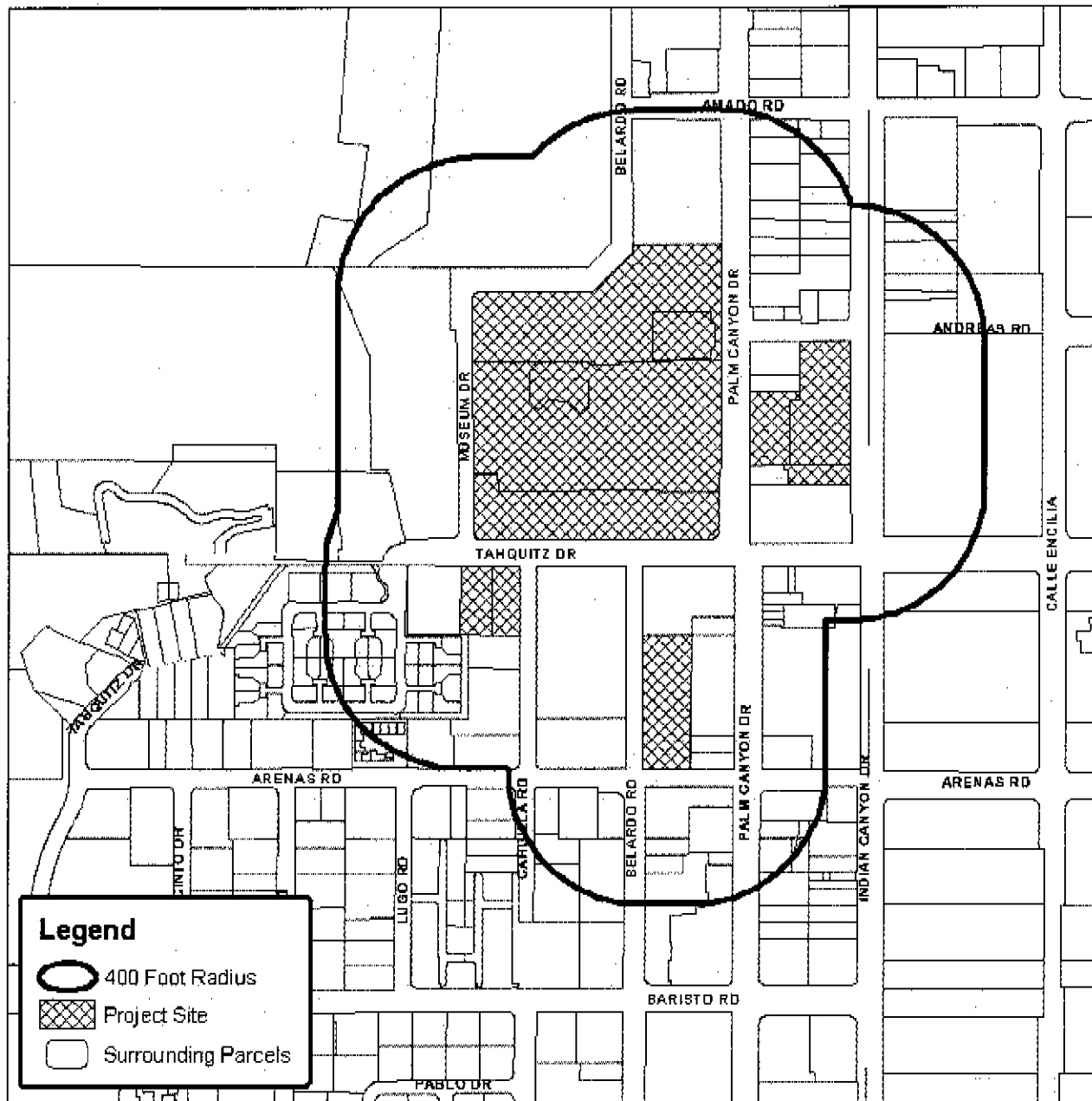
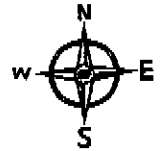
An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Craig A. Ewing, AICP, Director of Planning Services at (760) 323-8245.

Si necesita ayuda con esta carta, porfavor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger telefono (760) 323-8245.


James Thompson, City Clerk



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 5.1204 GPA/ZTA

APPLICANT: Wessman Development

DESCRIPTION: To consider a draft Specific Plan proposed by Wessman Development as an amendment to the Palm Springs General Plan and Zoning Code. As proposed, the draft Specific Plan would allow up to 955 high-density residential units, up to 400,000 square feet of commercial retail and office space, and up to 620 hotel rooms. The 20-acre site is generally located at the northwest corner of North Palm Canyon Drive and Tahquitz Canyon Way.