

August 7, 2015

Via Email and U.S. Mail

Building Code Appeals Board  
c/o Denise Bystrzycki, Board Secretary  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262  
Denise.Bystrzycki@palmsprings-ca.gov

**RE: Appeal of Demolition Permits for Tahquitz Plaza located at 600, 650 and 700  
East Tahquitz Canyon Way**

1504 Marsh Street  
San Luis Obispo  
California 93401  
ph: 805-593-0926  
fax: 805-593-0946

babaknaficy@sbcglobal.net

Dear Honorable Board Members,

I submit this letter on behalf of Advocates for Better Community Development (“ABCD”) and Palm Springs Preservation Foundation (“PSPF”, collectively, “Appellants”) in support of the appeal of the demolition permit authorizing Nexus NDC equities to demolish the buildings that comprise the historic Tahquitz Plaza, located at 600, 650 and 700 Tahquitz Canyon Way East, Palm Springs. Appellants contend the issuance of the demolition permit was unlawful because the City had failed to comply with the California Environmental Quality Act (“CEQA”).

The Staff Report fails to adequately describe the circumstances of this appeal. While the Staff Report explains that the owners of Tahquitz Plaza have for now, withdrawn their development plans and land use applications, it makes no mention of the fact that currently the City’s Historic Site Preservation Board (“HSPB”) is evaluating PSPF’s nomination of Tahquitz Plaza as a Palm Springs Class 1 Historic Site. Nor does the Staff Report explain that the HSPB has issued a stay of demolition while it considering the status of Tahquitz Plaza.

The Staff Report, moreover, fails to consider the Developers’ (O&M HR, LLC and Nexus Development) purpose for demolishing Tahquitz Plaza. There is no evidence in the record to suggest the buildings are in disrepair or otherwise unsafe. There is no reason to believe the Developers have permanently abandoned their plans to ultimately bring back a residential and commercial project as previously proposed. It would therefore be naïve to speculate that the Developers have abandoned their plans to develop the site following demolition. Yet, the Staff Report considers the demolition permit in isolation, without any consideration of the likelihood that the

Developers will resume their development plans immediately or shortly after demolition is complete.

CEQA requires a public agency to conduct environmental review before approving any discretionary project that may result in an impact on the environment. Pub. Res. Code §21065, 21080. “Project” means the “whole of an action” and “does not mean each separate governmental approval.” CEQA Guidelines §§15378(a), 15165, 15168. “CEQA’s requirements cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.” Lincoln Place Tenants Ass. v. City of Los Angeles (2005) 130 Cal.App.4<sup>th</sup> 1491, 1507. CEQA forbids the City from “piecemealing” project components to hide or ignore environmental impacts that must be reviewed in a single EIR. Bozung v. Local Agency Formation (1975) 13 Cal.3d 263, 283-4. CEQA requires an agency to conduct environmental review before the first approval for a project, even if later approvals are still needed. Id.

The City has essentially piecemealed the Developers’ overall development project when it issued a demolition permit without CEQA compliance. There can be no serious debate that the Developers seek a demolition permit as part and parcel of their overall plans to develop the site. There is no independent reason, aside from developing the site, to issue a demolition permit. Because the demolition permit is part and parcel of the Developers’ plans to develop the site, it cannot be issued in isolation.

The City therefore cannot issue any permit related to the development project, including a demolition permit, before conducting CEQA review of the whole of the project. See, Orinda Ass’n v. Bd of Supervisors (1986) 182 Cal.App.3d 1145, 1171-72.

Sincerely,

/s/ Babak Naficy

Babak Naficy  
Attorney at Law

cc: Doug Holland  
Terry Milton