



CITY COUNCIL STAFF REPORT

DATE: November 6, 2013 CONSENT AGENDA

SUBJECT: MILLS ACT HISTORIC SITE CONTRACT – 611 PHILLIPS ROAD “THE ABERNATHY HOUSE” (HSPB #86)

FROM: David H. Ready, City Manager

BY: Planning Services

SUMMARY

This action would engage the City of Palm Springs into a standard Mills Act Agreement with Eric Ellenbogen, owner of 611 North Phillips Road, (APN 507-201-006) and the Royal Hawaiian Estates Homeowners Association. The intent of this contract is to require maintenance and preservation of this Class 1 historic site in exchange for possible property tax relief as calculated by the County of Riverside.

RECOMMENDATION:

1. Approve a Mills Act Historic Property Agreement between the City of Palm Springs and Eric Ellenbogen, for 611 North Phillips Road, “The Abernathy House”, a Class 1 historic site (HSPB #86).
2. Authorize the City Manager to execute the Agreement.
3. Direct the City Clerk to record the Agreement.

STAFF ANALYSIS:

On February 6, 2013, the City Council designated The Abernathy House, a Class 1 historic site (HSPB #86).

On May 14, 2013, the Historic Site Preservation Board voted 6-0-1 (Williamson absent) to recommend that the City Council execute a Mills Act Contract between the City of Palm Springs and Craig Hammond and the Royal Hawaiian Homeowners Association.

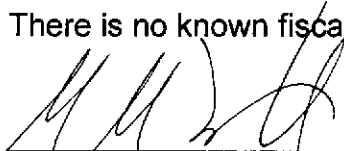
Pursuant with California Government Code Section 50280 – 50290 upon the application of an owner of any qualified historic property, the legislative body of a city may contract with the owner or agent to restrict the use of the property to carry out the purposes and goals of historic preservation of the property. Such a contract is commonly referred to

as a “Mills Act Agreement” and it provides for possible alternative property tax rate calculations in exchange for specific and ongoing preservation and maintenance of the property, specifically its historically significant elements and characteristics.

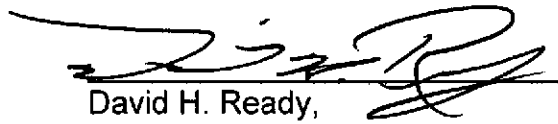
The Abernathy House is a Class 1 historic site and as such, is qualified for a Mills Act Contract.

FISCAL IMPACT: None

There is no known fiscal impact upon the city as a result of this recommended action.



Margo Wheeler, AICP,
Director of Planning Services



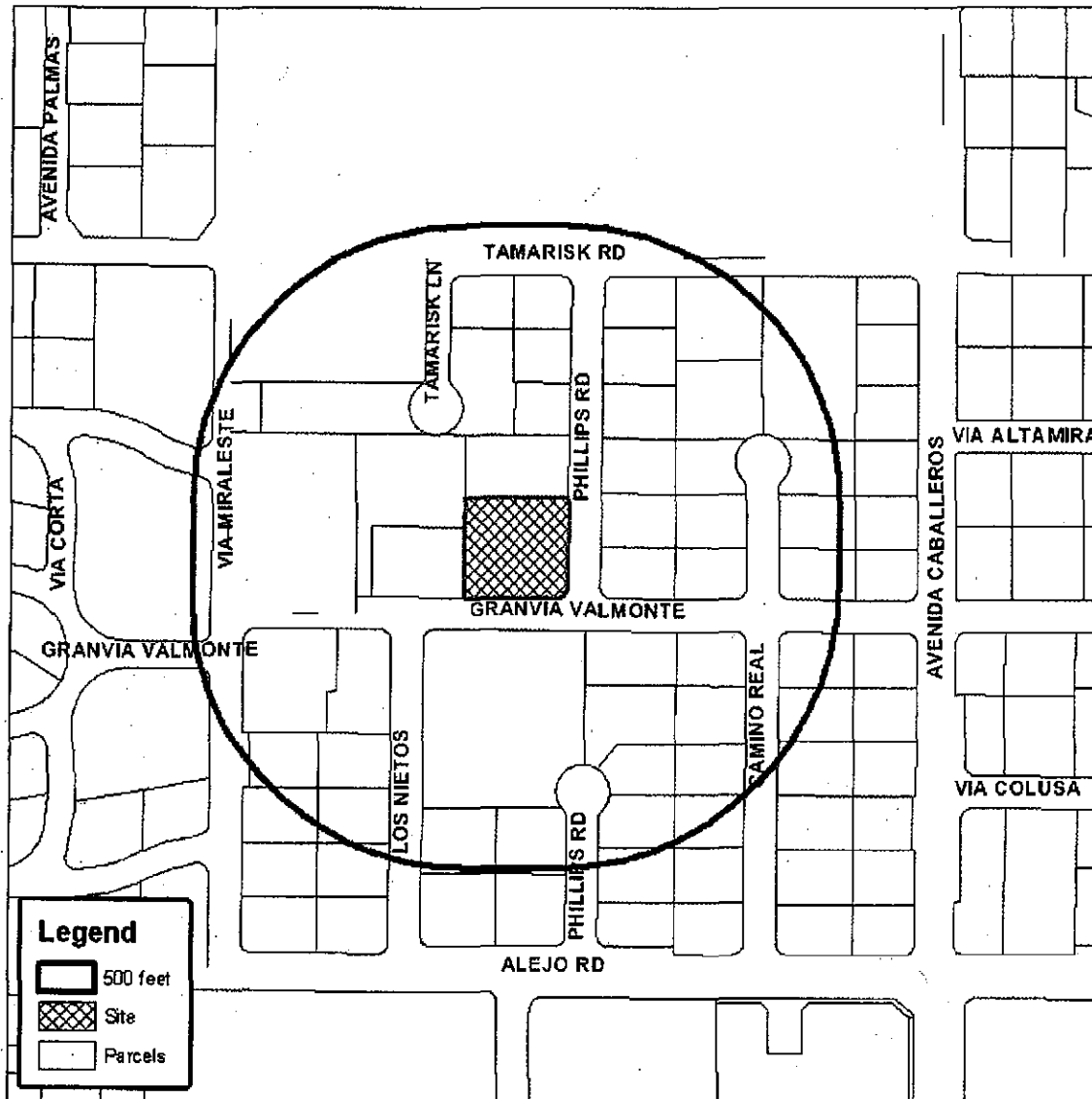
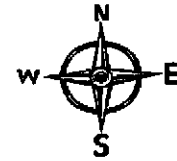
David H. Ready,
City Manager

Attachments:

- Vicinity Map
- City Council Resolution designating the Abernathy House a Class 1 historic site.
- HSPB minutes of May 14, 2013.
- HSPB staff report dated May 14, 2013.
- Ellenbogen to Ewing letter of application dated April 1, 2013.



**Department of Planning Services
Vicinity Map**



CITY OF PALM SPRINGS

CASE NO: HSPB 86

APPLICANT: Eric Ellenbogen

DESCRIPTION: Request to initiate a Mills Act Agreement on the recently designated Class 1 Historic Site home (The Abernathy Residence) at 611 North Phillips Road, Zone R1C, Section 11/T4/R4.

Abernathy

~~Applicant clarified the application is for 217 only, not the entire complex.~~

~~Motion to Approve by Grattan, second by Ploss; Vote 6-0 (absent Williamson).~~

1D. Case HSPB 86 – An application by Eric Ellenbogen, Owner of the Abernathy House at 611 N. Phillips Road, requesting a Mills Act Historic Property Agreement between himself and the City of Palm Springs.

Recommendation: Recommend Approval to City Council.

Motion to Approve by Grattan; second by Ploss; Vote 6-0 (absent Williamson).

2. NEW BUSINESS

2A. Case HSPB #33-A – A request for a certificate of approval for a modification to the Palm Springs City Hall, a Class 1 historic site, to install conduit for a new Traffic Management Control Center, located at 3200 E. Tahquitz Canyon Way, Zone C-U.

Applicant representative from Public Works, Felipe Primera, presented project.

Motion to Approve by Ploss; Second by Grattan; Vote 6-0 (absent Williamson)

2B. Case HSPB #22 / SP 12-001 – An application by Best Signs, Inc. requesting a certificate of approval to establish a sign program to govern all signage for the La Plaza shopping center located at 115 South Indian Canyon Drive, Zone CBD.

Applicant Jim Cross of Best Signs, Inc. presented project and answered questions.

Board Member Ploss wanted to have a more thorough review of signage seeing colors and materials.

Board Member Grattan said that the AAC review and recommendations were sufficient.

Board Member Johns asked about the "Great Shakes" sign.

Mr. Lyon believes it is unpermitted.

Board Member Burkett questioned enforcement. Mr. Lyon said staff's job. Applicant added Landlord too.

Motion to Approve by Grattan; second by Johns; Vote 5-1(Ploss) (absent Williamson)



Historic Site Preservation Board Staff Report

Date: May 14, 2013
Case No.: HSPB #86 Mills Act
Application Type: Mills Act Agreement
Location: 611 Phillips Road "The Abernathy House"
Applicant: Eric Ellenbogen
From: Ken Lyon, RA, Planner

PROJECT DESCRIPTION

An application by Eric Ellenbogen, owner of 611 Phillips Road "The Abernathy House" to enter into a Mills Act Agreement with the City of Palm Springs.

RECOMMENDATION

That the Historic Site Preservation Board recommends that the City Council execute a Mills Act Agreement between the City and Eric Ellenbogen, owner of 611 Phillips Road, "The Abernathy House".

PRIOR ACTIONS TAKEN ON THE PROJECT

On February 6, 2013 the City Council designated the property at 611 Phillips Road a Class 1 Historic Site.

BACKGROUND AND SETTING

Pursuant with California Government Code Section 50280 – 50290 upon the application of an owner of any qualified historic property, the legislative body of a city may contract with the owner or agent to restrict the use of the property to carry out the purposes and goals of historic preservation of the property. Such a contract is commonly referred to

as a "Mills Act Agreement" and it provides for possible alternative property tax rate calculations in exchange for specific and ongoing preservation and maintenance of the property, specifically its historically significant elements and characteristics.

DESCRIPTION AND ANALYSIS

The Mills Act is state sponsored legislation granting local governments the authority to directly participate in a historic preservation program. It is designed to provide private property owners with an economic incentive, via property tax relief, to actively participate in the restoration of their historic properties.

Property owners may qualify for property tax relief if they pledge to restore and maintain the historical and architectural character of their properties for at least a ten-year period. A formal agreement known as a Mills Act contract is executed between the local government and the property owner for a minimum ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to preserve and maintain the property in accordance with specific historic preservation standards and conditions as identified in the contract. Local authorities may impose penalties for breach of contract or failure to protect the historic property. The contract is binding to all owners during the contract period.

The Mills Act contract has the effect of freezing the base value of the property. There is little effect over the first few years but as the property is restored over a longer period of time, the value increases and the property tax savings may increase over time. The property owners have consulted with their tax advisors and determined that entering into a Mills Act contract with the City would be mutually beneficial for both parties. The owners also understand that entering into the Mills Act contract only represents the potential for property tax savings and is not a guarantee.

The owner of the subject property have invested a significant amount of money to restore and preserve the property in nearly original state and will continue to do so. The potential property tax savings provided by the Mills Act contract will assist the owners in defraying the costs associated with maintaining the property.

REQUIRED FINDINGS

Mills Act Agreements may only be executed on qualified historic properties.

Pursuant California Government Code 50280.1 "Qualified historical property" for purposes of this article, means privately owned property which is not exempt from property taxation and which meets either of the following:

- (a) Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191.2(b).
- (b) Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

The property at 611 Phillips Road meets this criteria in that it is was designated a Class 1 historic site by the City Council of the City of Palm Springs.

Following review and recommendation by the Board, the contract will be forwarded to the City Council for action.

ENVIRONMENTAL ASSESSMENT

This project is exempt from environmental review per Section 15331 of the California Environmental Quality Act (CEQA) Guidelines.



Ken Lyon, RA
Associate Planner



Margo Wheeler, AICP
Director of Planning Services

ATTACHMENTS

500 foot radius Vicinity Map

RESOLUTION NO. 23291

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DESIGNATING A SINGLE FAMILY RESIDENCE AND ACCESSORY STRUCTURES LOCATED AT 611 NORTH PHILLIPS ROAD AS A HISTORIC SITE, CLASS 1 HISTORIC SITE (HSPB 86).

WHEREAS, in 1962-63, a single family dwelling designed by noted architect William F. Cody was constructed at the northwest corner of N. Phillips Road and Gran Via Valmonte, and with a site address of 611 N. Phillips Road; and

WHEREAS, the dwelling has been remodeled and restored, including landscaping, following the design principles of William Cody; and

WHEREAS, the defining characteristics of this building include:

- Form, proportion, structural grid, and floor plan, represented as a cluster of pavilions that focus on gardens through large expanses of glass.
- Stylistic and architectural detailing, including trimless windows and doors, and
- Sophisticated building materials

WHEREAS, Chapter 8.05 of the Palm Springs Municipal Code allows for the designation of historic sites; and

WHEREAS, the property owner, Eric Ellenbogen, with the Palm Springs Preservation Foundation, has submitted an application for Historic Site Designation for the subject property; and

WHEREAS, notice of a public hearing of the Historic Site Preservation Board of the City of Palm Springs to consider designation of the property at 611 N. Phillips Road, as a historic site was issued in accordance with applicable law; and

WHEREAS, on December 11, 2012 and January 8, 2013, the Historic Site Preservation Board conducted a public hearing in accordance with applicable law to consider designation of the property at 611 N. Phillips Road as a historic site, and at which meeting the Historic Site Preservation Board carefully reviewed and considered all of the evidence in connection with the designation, including but not limited to the staff report, application and historical research, all written and oral testimony presented; and following said hearing voted 4 to 0, with one absence and one abstention to recommend Class 1 designation of the site as contained in HSPB Resolution No. 86; and

WHEREAS, notice of a public hearing of the City Council of the City of Palm Springs to consider designation of the property at 611 N. Phillips Road, as a historic site was issued in accordance with applicable law; and

WHEREAS, on February 6, 2013, the City Council conducted a public hearing in accordance with applicable law to consider designation of the property at 611 N. Phillips

Road as a historic site, and at which meeting the City Council carefully reviewed and considered all of the evidence in connection with the designation, including but not limited to the staff report, application and historical research, all written and oral testimony presented

THE CITY COUNCIL HEREBY FINDS AS FOLLOWS:

1. *The property reflects or exemplifies a particular period of the national, state or local history.*

Midcentury modern residential architecture developed deep roots in Palm Springs beginning in the 1950's and the Abernathy Residence is an excellent example of how William F. Cody developed his approach to defining resort-style living, through a cluster of pavilions that focus on gardens through large expanses of glass. The house and site utilization represent an important phase of the development of Palm Springs' architecture that influenced the development of later custom estates. Subsequent additions have been generally respectful of the original site plan and design.

2. *The property embodies the distinctive characteristics of a type, period or method of construction.*

The subject is a model for desert or resort residential construction for the wealthy of the mid-century period. The defining characteristics include form, proportion, structural grid, floor plan, stylistic and architectural detailing, and materials among the most sophisticated in the region. The building serves as a reference to ideas of design and construction in plan and form in the ways it combines particular construction materials in a unified whole. The way in which the defining characteristics of this property are related by style, choice and availability of the materials and technology utilized in its construction is emphasized because the home is a perfectly intact and important example of its type, and of the building practices of the 1960s.


3. *The property presents the work of a master builder, designer, artist, or architect whose individual genius influenced his age; or that possesses high artistic value.*

The building's architect, William F. Cody, was recognized by the AIA with a Fellowship after twenty years of practice in southern California and other warm climates. He is one of the recognized groups of mid-century modern architects who practiced in the Palm Springs area. The Abernathy residence expresses the distinctly midcentury modernist phase in Cody's career for which he continues to be known.


NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the City Council does hereby adopt the attached Statement of Historic Significance and designate the entire property located at 611 N. Phillips Road as a Historic Site, Class 1 subject to the following conditions and noting that the carport, pavilion and cactus garden do not contribute directly to the property's historic significance, yet should be included to provide for future review of any alterations;

1. The property owner shall permit the City to place a historic marker of the City's choosing at the site. The marker shall be placed in a location visible from the public right-of-way. The owner shall maintain the marker in the location installed and pay for the replacement cost if the plaque is lost, stolen, or otherwise removed from the property.
2. All future modifications of the existing structures, as well as any new buildings shall require HSPB review pursuant Municipal Code Ordinance 8.05.180.
3. No review for maintenance of the landscaping shall be required, except that, subject to staff approval, any new landscape materials shall be native or desert-appropriate, including removal of turf, where practical.
4. All requirements of the Palm Springs Zoning Code shall be met.
5. That the City Clerk submit the Council Resolution to the County recorder for recordation within 90 days of the effective date of this resolution.
6. Any alterations or modifications to the exterior approved prior to the designation of this site by the City Council shall be considered legal, non-conforming only as to Section 8.05 of the Palm Springs Municipal Code.

ADOPTED THIS 6TH DAY OF FEBRUARY, 2013.


David H. Ready, City Manager

ATTEST:



James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. 23291 is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on February 6, 2013, by the following vote:

AYES: Councilmember Foat, Councilmember Hutcheson, Councilmember Lewin,
and Mayor Pougnet.
NOES: None.
ABSENT: Mayor Pro Tem Mills.
ABSTAIN: None.


James Thompson, City Clerk
City of Palm Springs, California 02/18/2013

STATEMENT OF HISTORIC SIGNIFICANCE

611 N. PHILLIPS ROAD

EXECUTIVE SUMMARY

Palm Springs is known internationally for its significant concentration of midcentury modern residential and commercial construction. It has been said that no American city is more closely identified with this particular period of American architecture. As a perfect example of the domestic architecture of the period, the James Logan Abernathy Residence truly exemplifies this period of national, State and local history. The Abernathy residence is significant primarily for its architectural quality. Master architect William F. Cody's design for the 1962 home exemplifies Midcentury Modern desert architecture and that period of local architectural history. It embodies the distinctive characteristics and construction methods of a private residential retreat of its era. Furthermore, the home is a unique representation of the high artistic values that may be found in a desert residence.

As an embodiment of the distinctive characteristics of the type, period, and methods of custom residential styling, the building displays distinctive characteristics and physical features. These features define resort-style living, expressed in this home as a cluster of pavilions that focus on gardens through large expanses of glass. The exterior spaces were fully developed to promote the year-round use of multiple outdoor amenities such as patios spas and swimming and reflecting pools. This property contains enough of these characteristics to be considered a true representative of its particular type, period, and method of construction. The subject is a model for desert or resort residential construction for the wealthy of the mid-century period. The defining characteristics include form, proportion, structural grid, floor plan, stylistic and architectural detailing, and materials among the most sophisticated in the region. The building serves as a reference to ideas of design and construction in plan and form in the ways it combines particular construction materials in a unified whole. The way in which the defining characteristics of this property are related by style, choice and availability of the materials and technology utilized in its construction is emphasized because the home is a perfectly intact and important example of its type, and of the building practices of the 1960s. The house and site utilization represent an important phase of the development of Palm Springs' architecture that influenced the development of later custom estates.

To understand how William F. Cody qualifies as a "master architect" it is necessary to review his background and career. He came to the Coachella Valley when he was commissioned in 1946 to provide design services to the Desert Inn. A native of Ohio, Mr. Cody attended Beverly Hills (CA) High School, Santa Monica Junior College and the College of Architecture and Fine Arts at the University of Southern California, where he received a Bachelor's degree in Architecture in 1942. During the war years, he worked on industrial, military and educational facilities in northern and southern California, and Arizona. He also worked for Cliff May, a leading southern California building designer,

and is credited with work on May's Pace-Setter House – an influential, low-cost California ranch house design.

Mr. Cody received National Design Award recognition for several elementary and high school buildings on which he worked while employed at the firm of Marsh, Smith and Powell (Los Angeles, CA). He applied for membership in the American Institute of Architects (AIA) in 1948 showing an office location in Santa Monica. The Southern California Chapter of the AIA granted one of his first desert commissions, the San Marcos Hotel, an "honorable mention" in its award ceremony in 1949.

By 1950, William Cody and his family had relocated to Palm Springs, and he was retained to convert the Thunderbird Dude Ranch into the Thunderbird Country Club. Subsequent commissions in the Coachella Valley followed, including work at the Eldorado Country Club, the Tamarisk Country Club, the Racquet Club and the Tennis Club. He spent nearly a decade beginning in 1960 altering and expanding the Spa Hotel for the Agua Caliente Band of Cahuilla Indians. Additional commissions in California, Arizona, Texas, Cuba and Mexico continued his specialization in country club / residential developments.

Mr. Cody was elevated to Fellowship in the AIA in 1965 and found his last commissions back in Palm Springs where he designed St. Teresa's Catholic Church and Convent (1966-68) and the Palm Springs Public Library (1973). Following a stroke, he died in 1978 at age 62.

ERIC ELLENBOGEN
611 North Phillips Road
Palm Springs, CA 92262
eric.ellenbogen@mac.com

April 1, 2013

Via Certified Mail

The Honorable Steve Pougnet, Mayor of Palm Springs
and Members of the Palm Springs City Council
P. O. Box 2743
Palm Springs, CA 92262

Re: Mills Act Agreement - Class 1 Historic Designation of 611 North Phillips Road

Dear Mayor Pougnet and Members of the City Council:

I am delighted that the City Council voted unanimously at their meeting of February 6, 2013 to designate the William Cody-designed "Abernathy Residence" at 611 North Phillips as Class 1 Historic Site (HSBP 86).

Per the Planning Department staff report, since I acquired the Abernathy Home in 2005 it has been the subject of a careful historic restoration, consistent with the original plans for the home accessed from the William Cody Archive at Cal State San Luis Obispo. I am pleased to make my home available regularly for civic events, which most recently have included benefits for the Palm Springs Preservation Foundation, the Human Rights Campaign, and the Architecture and Design Council of the Palm Springs Museum.

Further to the Class 1 Designation, I would like to enter into a Mills Act Agreement with the City of Palm Springs. I have enclosed a check for \$824 to cover required processing fees.

Thank you for your consideration.

Sincerely yours,

Eric Ellenbogen
Owner

Encl.

cc: Ken Lyon (via email)