



MAYOR ASHLEY SWEARENGIN

April 13, 2010

Mr. Milford Wayne Donaldson, State Historic Preservation Officer
Office of Historic Preservation
California Department of Parks and Recreation
P.O. Box 942896
Sacramento, California 94296-0001

Dear Mr. Donaldson:

As the chief elected local official of the City of Fresno, I write to register my strong **objection** to the listing of the Fulton Mall on the National Register of Historic Places or the California Register of Historical Resources at this time. The enclosed letter on behalf of our local Historic Preservation Commission (HPC) similarly does not support listing the Fulton Mall at this time. Therefore under 16 USC 470a(c)(2)(B), I am requesting and anticipating that you will take no further action on this nomination unless appealed.

As you are aware, the physical structure of the Fulton Mall, the fountains, and the artwork are owned by the City of Fresno. However, as is common with streets and alleys under California Civil Code Section 831, the underlying land is owned in fee by owners of property along the Mall. By the City's count, a total of 46 parcels are in private ownership in the nominated area. In addition to the recommendation by our local HPC not to list the Fulton Mall on the National Register, many of the private property owners of the Fulton Mall property have registered their notarized objections to this nomination. As of this writing, my staff is in possession of letters of objection from owners of 21 of these parcels, and letters of support from only 2 parcels' owners (see Exhibit A).

The objection letters are sufficient in number to suggest that a majority of the individual owners may be objecting. However, I am troubled to learn that your staff is unaware of, and has been unwilling to determine, the actual number of owners of the property that comprises the Fulton Mall. As you know, pursuant to 36 CFR 60.6(g), upon receipt of notarized objections respecting a site with multiple owners, it is your responsibility to ascertain whether a majority of owners of private property have objected. As I understand it, on Friday, April 2, 2010, your staff acknowledged to City of Fresno staff that the Office of Historic Preservation does not know how many owners there are, nor does your staff have immediate plans to determine this number.

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How does one determine a majority without knowing how many comprise the whole? If the objections are appealed and the nomination moves forward, I urge your staff to immediately perform the investigation necessary to ascertain the actual number of private property owners of the Fulton Mall property. The issue of ownership is confusing enough without the uncertainty caused by not doing the necessary research.

In addition, my staff has informed me that it appears the required noticing of Fulton Mall property owners by the Office of Historic Preservation (OHP) of its intention to move this nomination forward was incomplete and inadequate. To date, some property owners still have not been sent complete information about this nomination by the OHP. As you are surely aware, 36 CFR 60.6(c) requires that the property owner list used for notification be generated within 90 days of this notification. However, based on its contents, the list OHP provided to City staff appears to have been generated over a year before the notification was issued, and does not contain the names and mailing addresses for all property owners including owners that acquired their property within the last year. I understand that on April 2, 2010, your staff acknowledged not knowing the date of the list — yet insisted that the April 30, 2010, hearing on the nomination would proceed anyway, and without further notice to those property owners that have not received official notice of the nomination. This represents a willful disregard for the federal laws and regulations governing this process, which is unacceptable as it is contrary to the requirement of the National Historic Preservation Act that owners of such property shall be given the opportunity to concur in, or object to, the nomination of the property (See 16 U.S.C. 470a(a)(6).)

I am concerned that the “Draft” National Register of Historic Places Registration Form continues to improperly identify the owner of the Fulton Mall as Randall Cooper, Director of the Parks, After School, Recreation and Community Services Department. This ownership identification information has not been changed from what was contained on an earlier Registration Form that was sent to the City in 2008, despite the fact that the City has notified the OHP on numerous occasions that the actual owners of the Fulton Mall properties are the owners of the property along the Fulton Mall. Though my staff has been told that all Registration Forms remain in “Draft” until considered by the State Historic Resources Commission (SHRC), the failure to correct this critical ownership information conveys a lack of interest in properly identifying the owners of the Fulton Mall property and providing legally required notice to these owners.

Finally, I am concerned that in your letter to me and your letters directed to the property owners you fail to mention the fact that if the Keeper of the National Register makes a formal determination that the Fulton Mall is eligible for listing on the National Register, but the Fulton Mall is not listed due to the objections of a majority of the private property owners, it appears that the Fulton Mall will still be automatically placed on the California Register of Historical Resources. Your letter states that only if the Fulton Mall is listed on the National Register of Historic Places will it automatically be included in the California Register.

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However, Public Resources Code, section 5024.1(d)(1) states that the California Register shall include, "California properties formally determined eligible for, or listed in, the National Register of Historic Places." Whether intentional or not, the statement in your letter is inaccurate and incomplete and, as such, fails to fully disclose to the local officials, property owners and other stakeholders the full impact of this designation process.

Beyond the procedural defects, the nomination itself is a fundamentally flawed attempt to preserve what amounts to a failed urban renewal experiment that has bankrupted every effort to revitalize Downtown Fresno for decades. Please know that I respect the effort by the private citizens who nominated the Fulton Mall to preserve what they view as a positive resource for our community. I, too, am deeply proud of the City of Fresno's historic resources. Historic buildings create a tangible connection with our past and, in the case of our downtown, are perhaps the one thing that most sets this area apart from more recently developed parts of our city. Historic preservation is a critical, integral part of my administration's approach to economic development, especially in our downtown. The Specific Plan creation process described below encompasses the most ambitious historic preservation initiative in Fresno's history.

However, the Fulton Mall is a very different case from almost any historic building. Even with a contentious nomination for a building, there is always some universal appreciation of the positive role the resource has played in a community's history, and some desire for preservation. From there the question more often comes down to the practicality of preservation, with different interests placing greater or lesser value on preservation compared to other goals.

In the case of the Fulton Mall, even the basic appreciation and desire for preservation is in doubt. While some clearly treasure the Mall, others in our community affirmatively dislike it. Property owners have told me the Mall has made it more difficult to lease space to potential retail tenants, because the Mall makes it harder for those tenants' customers to find them. The same is true of upstairs office uses: the Mall has prevented the visibility and exposure needed for success. In the case of listed historic buildings, the results have been especially clear and disconcerting. Major historic buildings *near* the Mall have a vacancy rate of 35%, while major historic buildings *on* the Mall have a vacancy rate of 71% (see Exhibit B). In several cases, high vacancy rates are very sadly placing these buildings at risk of catastrophic collapse or dilapidation beyond repair.

While the nomination as written highlights the Garret Eckbo design of the Fulton Mall landscape as the resource to be preserved, the Eckbo design was only one aspect of the Fulton Mall project in 1964. The Eckbo design fit within a larger plan by architect Victor Gruen for the downtown business district. This plan hinged on making Fulton a pedestrian mall, creating a one-way traffic loop around the Mall, building large new parking garages and housing developments, and even closing off two main intersecting thoroughfares, Fresno and Tulare Streets, to traffic.

However, many of these elements were not implemented, leaving an incomplete manifestation of Gruen's original vision. Fresno and Tulare Streets never were closed to traffic. The housing and many of the parking facilities were never built. The original one-way loop road contains only one remaining one-way segment and has, in two locations, been blocked and built over by a baseball stadium and a large new government office building. In the absence of these other components, the Mall today does not exist or function in the form envisioned in 1964. The SHRC may wish to consider the appropriateness of nominating the Mall in isolation from major missing elements of the Gruen Plan. The City's HPC has also urged consideration of the Mall in its historic context.

More fundamentally still, the nomination of the Fulton Mall ignores the even deeper historic value of Fulton as the "Main Street" of Fresno. For more years than it has been a pedestrian mall, Fulton Street (formerly J Street) was a teeming center of life in the central San Joaquin Valley. The prevalence of tall, stately buildings is a testament to the erstwhile value of this real estate. Countless historic photos depict a Fulton Street overflowing with the hustle and bustle of a healthy city center (see Exhibit C).

The Fulton Mall's conception and design were and are inimical to this notion of a noisy, lively downtown. Throughout his career, Mall architect Victor Gruen attempted to separate the pedestrian from the automobile. Yet as we recognize today, on healthy Main Streets throughout California, vehicles can actually support the pedestrian retail experience, both by properly defining the sidewalk space and by providing a steady stream of "fresh eyes" to take the measure of a place where passengers might wish to stop and stroll. If the Fulton Mall is part of Fresno's history, surely a vibrant Fulton Street is as well, perhaps to a greater degree. All of these factors must be considered to determine the future of the Fulton Mall and Fulton Street, and will be considered during the Specific Plan development process described below.

Finally, as noted in public meetings by multiple Fulton Mall property owners — and as reflected in the position taken by the Historic Preservation Commission on April 5, 2010 — now is a poor time to consider listing the Fulton Mall as a historic resource. Presently the City is under a \$2.6 million contract with Moule & Polyzoides, Architects and Urbanists, along with a renowned team of planning and development experts, to develop a brand new Specific Plan for the "Fulton Corridor" in the core of Downtown Fresno, and a new Community Plan for the neighborhoods surrounding the Downtown area.

As part of the Fulton Corridor Specific Plan, the community will be making a decision about the future of the Fulton Mall. (The Plan will also create new zoning laws for the area, plan around the proposed High-Speed Train station, and use economic studies to guide projections for development and the locations of new infrastructure. The Plan will establish a cutting-edge "form-based code" in one of the largest urban areas in California and, through 300 historic building surveys, encompass the largest historic preservation initiative in Fresno's history.)

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The new Specific and Community Plans will be implemented through the adoption of a comprehensive environmental impact report which will, among many other components, consider the Fulton Mall as a historic resource for the purposes of CEQA and analyze the environmental impacts of various options for the future development of the Fulton Mall. The City Council and I have appointed a 21-member Citizens Advisory Committee to receive suggestions from fellow community members and make formal recommendations on Plan alternatives (see committee member list, Exhibit D). A highly participatory series of meetings, workshops, and intensive design charrettes is already underway and will proceed through early 2011, followed by preparation of the accompanying EIR and final Plan adoption in approximately mid-2012.

I cannot overemphasize that for this community-led planning process to be successful, all options for the future must be on the table so that important decisions can be made by all stakeholders together. While many options would technically still be open whether or not the Mall is listed on the National or State registers, listing it on the National or State Register would introduce a less tangible presumption toward preserving it in its present form. I am sure the SHRC shares my wish that the listing of any resource on the National, State or Local Register should engender a heightened level of respect, stewardship, and desire for preservation. Yet if the Mall were listed, even the proud owners of some historic buildings on the Mall might find themselves in the awkward position of arguing for the “destruction” of this “historic” resource because they favor certain fundamental alterations to the Mall’s form and function in order to make their buildings viable once again.

As the chief elected official of the City of Fresno, I object to listing the Fulton Mall on the National or State Registers at this time. A plurality (or possibly a majority) of Mall property owners, and our City’s Historic Preservation Commission, have taken the same position. Procedural irregularities have clouded issues of fairness and stakeholder participation. Instead of pressing forward with listing the Mall now, I encourage the OHP and SHRC to respect the local, stakeholder-led process that will bring Fresno to a healthy, workable solution for the Fulton Mall and the revitalization of its downtown core over the next two years.

If I or my staff can answer any questions about our approach to the Mall or revitalization in general, please contact Elliott Balch in the City’s Downtown and Community Revitalization Department at (559) 621-8366 or Elliott.Balch@fresno.gov.

Sincerely,



Ashley Swearengen
Mayor

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cc: The Honorable Arnold Schwarzenegger, Governor, State of California
The Honorable Larry Westerland, President, Fresno City Council
City of Fresno Historic Preservation Commission

Exhibits

- A: Fulton Mall properties represented by objection and support letters on historic listing
- B: Vacancy rates in major historic buildings on and off Fulton Mall
- C: Historic photos of Fulton Street
- D: List of Fulton Corridor Specific Plan Community Advisory Committee members

Enclosure

Letter from the City of Fresno Historic Preservation Commission

Exhibit A: PRIVATELY OWNED PROPERTIES IN THE NOMINATED AREA OF THE FULTON MALL

Letter rec'd	APN	Situs H	Situs Direction/	Owner Name (First Name Fir	Owner 2	Mail Care Of Name
	468-282-05	829	Fulton Mall	Moon Ja Yee		
OBJECT	468-282-19	845	Fulton Mall	Clifford H & Sonia Tutelian		
	468-255-07	860	Fulton Mall	Dae S & Sook K Lee		
OBJECT	468-281-05	901	Fulton Mall	W Bennett & Vivian L Mc Cutchen		
	468-254-07	902	Fulton Mall	902 Fulton Mall Llc		
	468-281-04	913	Fulton Mall	Alice & Zaven Jamgochian		Z Jamgochian
	468-281-03	921	Fulton Mall	Marshall M & Carolyn G Litchmann		Litchmann & Co
SUPPORT	468-254-08	926	Fulton Mall	Grace Winifrid Hollingsworth Manning Charles H		P Hollingsworth
	468-281-02	931	Fulton Mall	Samuel & Lupe Sosa		
	468-254-09	932	Fulton Mall	Ruben Technologies Llc		Burton Ruben
OBJECT	468-254-10	944	Fulton Mall	T W Patterson Investors		
	468-281-01	959	Fulton Mall	Fresno Ball Park Lofts Llc		Shawn S Rabbani
OBJECT	466-172-07	1000	Fulton Mall	Maya Investment Group Llc		
OBJECT	466-172-08	1010	Fulton Mall	Maya Investment Group Llc		
OBJECT	466-213-07	1015	Fulton Mall	Pentori Inc		
	466-213-06	1017	Fulton Mall	Francisco & Maria Elena Madrigal		
OBJECT	466-213-05	1025	Fulton Mall	Ellis Family Partnership		T H Commercial Prop
	466-213-04	1029	Fulton Mall	Cooper & Mark Hubbard Collins		
OBJECT	466-172-15	1034	Fulton Mall	Friis Hansen & Co M		
OBJECT	466-213-03	1035	Fulton Mall	Francisco D & Elena Miranda Ochoa		
	466-270-01	1040	Fulton Mall	Steven Kyle Pegram	Yang Jane	
	466-270-02	1044	Fulton Mall	1044 Fulton Mall Associate Llc		Galaxy Comm Holding
	466-213-02	1045	Fulton Mall	Sang Soo & Eun-joo Lee		
OBJECT	466-213-24	1049	Fulton Mall	Shirley Rodder Blum	Rodder Jerome Alan	
OBJECT	466-172-12	1058	Fulton Mall	Fresno Pacific Towers Inc		
SUPPORT	466-212-04	1101	Fulton Mall	Protek Lending Helm Llc		
OBJECT	466-171-11	1108	Fulton Mall	Robert M Gurfield		
OBJECT	466-171-12	1118	Fulton Mall	Robert M Gurfield		
	466-212-03	1127	Fulton Mall	Ronald C & Jenny Z Wong		
OBJECT	466-171-13	1130	Fulton Mall	Robert M Gurfield		
	466-171-14	1136	Fulton Mall	Force-fulton Mall Llc		
	466-212-16	1141	Fulton Mall	Hoang Dinh Do	Thu Ly Cuc	
OBJECT	466-212-17	1149	Fulton Mall	Medina Sdi Llc		
	466-260-01	1150A	Fulton Mall	Eugene V & Darlene Warner	Martha A Warner	
	466-260-02	1150B	Fulton Mall	Eugene V & Darlene Warner		
	466-260-03	1150C	Fulton Mall	Eugene V & Darlene Warner		
	466-212-01	1177	Fulton Mall	Scripps Gsb Llc li		B L Ruderman
OBJECT	466-211-05	1201	Fulton Mall	Ronald W & Elaine J Weiner		
OBJECT	466-154-11	1212	Fulton Mall	Center Mall Court Investors		
OBJECT	466-154-12	1228	Fulton Mall	Edward B Barry		
OBJECT	466-211-20	1237	Fulton Mall	Allen Family Living 2008 Trust		
OBJECT	466-154-13	1250	Fulton Mall	Alan L & Moira L Allen		
OBJECT	466-154-14	1254	Fulton Mall	Michael G & Lorie G Marderosian		
	466-211-12	1255	Fulton Mall	R & C Patterson Family L P		R Patterson
	466-153-14	1302	Fulton Mall	Longs Drugs Stores California		Nickel & Company Llc
	466-240-03	1055	Van Ness Ave	Brisam Fresno LLC		S Chang
21 TOTAL OBJECT						
2 TOTAL SUPPORT						

Exhibit B

Vacancy rates

of major historic office/retail/residential buildings near the Fulton Mall

Mall buildings	Gross area (s.f.)	Vacancy	Off-Mall buildings	Gross area (s.f.)	Vacancy
Radin-Kamp (JC Penney)**	154,322	100%	Rowell*	75,496	65%
TW Patterson*	151,489	35%	San Joaquin Light & Power Co.*	145,154	15%
Bank of Italy**	69,484	100%	Hotel Fresno**	121,411	100%
Mason**	61,000	83%	Californian Hotel**	149,003	0%
Pacific Southwest*	143,204	90%	Kern-Kay Hotel (Exchange)*	45,000	20%
Helm*	75,740	92%	Hotel Virginia*	37,158	5%
Mattei (Guarantee)*	89,700	0%			
TOTAL	744,939	71%	TOTAL	573,222	35%

* Source: Property owner or representative

** Source: Observation by City of Fresno staff

Exhibit C: **Historic photos of Fulton Street**
courtesy of the Claude C. "Pop" Laval Photographic Collection





Exhibit D

FULTON CORRIDOR SPECIFIC PLAN Community Advisory Committee

Committee member	Affiliation with Downtown and the community
Joyce Aiken	Former director, Fresno Arts Council; an original Fulton Mall artist
Alan L. Allen	Retired contractor who has restored Fulton Mall buildings he owns
Rosemarie Amaral	Fresno Co. Dept. of Public Health with a focus on land use and fitness
Donavan Byrn	Cultural Arts District resident and Creative Fresno mural coordinator
James J. Connell	Executive Director, Poverello House
Raul De Alba	Family owns several Fulton Mall businesses and property since 1989
Morgan Doizaki	Mgr., Fresno Discount Mall; President, Chinatown Revitalization Inc.
Victoria Gonzales	Commercial real estate broker active downtown; former DTA director
Evan Hammer, Jr.	Third-gen. owner of Evan's Electric, a downtown business since 1928
Patrick Hammond	Chukchansi Tribal Council Member and Treasurer
James Haron	Owner of Haron Jaguar/Land Rover on Ventura Avenue
Eric A. Kalkowski	Co-owner of Kalkowski Construction, a 10-year downtown business
Sandra King	Owner and manager of the Security Bank building at 1060 Fulton Mall
Gary Lanfranco	Third-generation owner of Cosmopolitan Tavern & Grill in Chinatown
Nancy Marquez	Board member and founding member of Cultural Arts District Assn.
Roger Palomino	15-year CEO of Fresno Co. Economic Opportunities Commission
Polly Parenti	Chinatown property owner and volunteer
Timothy Schulz	Construction supt. for several recent downtown mixed-use projects
Maribel Vera-Anaya	Owner, Joe's Steakhouse & Grill on Van Ness Avenue
Brent Weiner	Third-generation owner of Procter's Jewelers on Fulton Mall
Allysun Williams	Director of Planning & Community Devt., Fresno Housing Authority
Alternate	Affiliation with Downtown and the community
Nadar Ali	Owner of Salaam's Seafood in Chinatown
Suzanne Bertz-Rosa	Brand strategist, designer, chair of former Creative Economy Council
Beth Eckloff	Pink House Program Director, Fresno Institute for Urban Leadership
Jan Minami	Executive Director, Downtown Association of Fresno

For more information:
Wilma.Quan@fresno.gov, (559) 621-8371
Elliott.Balch@fresno.gov, (559) 621-8366

updated 3/3/10



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(559) 621-8003 FAX (559) 498-1012

Planning and Development Department

John M. Dugan, AICP
Director

Please reply to: (559) 621-8520

April 9, 2010

Mayor Ashley Swearengin
2600 Fresno Street
Fresno, CA 93721

Dear Mayor Swearengin:

Pursuant to the City's status as a Certified Local Government (CLG) in a formal agreement with the California State Office of Historic Preservation and the National Park Service, the City's Historic Preservation Commission has prepared the following report regarding the nomination of the Fresno Fulton Mall to the National Register of Historic Places.

The nomination was prepared by a non-profit group, the Downtown Fresno Coalition and is slated for hearing by the State Historical Resources Commission on April 30, 2010.

The Historic Preservation Commission under both the CLG agreement as well as FMC 12-1606(12) has the specific charge of finding "whether or not such a property, in its opinion, meets the criteria for the National Register."

At a special meeting of the Commission held April 5th, the Commission reviewed the nomination, pertinent other materials and took public testimony. The Commission adopted the following three resolutions:

- 1) Finds the Fulton Mall eligible to the National Register of Historic Places under Criterion C and Special Criteria Consideration G (on a 4-1 vote with two absences).
- 2) Does not recommend nomination of the Fulton Mall at this time (5-0).
- 3) Recommends treatment of the Fulton Mall with respect to its overall historic context and within the current Fulton Corridor Specific Plan process (5-0).

Please convey this report with your recommendations to the State Historic Preservation Officer, Milford Wayne Donaldson FAIA, as requested in his letter of February 25, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Karana Hattersley-Drayton".

Karana Hattersley-Drayton, M.A.
Historic Preservation Project Manager
Secretary, Historic Preservation Commission
City of Fresno