

# MINUTES

## HISTORIC PRESERVATION COMMISSION

### DECEMBER 8, 2021

Minutes of the regular hearing of the Historic Preservation commission, of the City of Tempe, which was held at the Hatton Hall, 34 East Seventh Street, Tempe, Arizona.

#### Regular Meeting 6:00 PM

<b>Present:</b>	<b>Staff:</b>
Chuck Buss, Chair	Steve Abrahamson, Principal Planner
Chris Garraty	Robbie Aaron, Interim Historic Preservation Officer
Jim Garrison	Brittainy Nelson, Administrative Assistant
Elizabeth Gilbert	Jared Smith, Senior Curator
Gregory Larson	Shelly Seyler, Interim Community Dev Director
Laurene Montero	Ambika Adhikari, Principal Planner
Joe Nucci	
Reylynne Williams	
Kyle Woodson	

#### 1) Voting of the Meeting Minutes

**Motion** by Commissioner Montero to approve the Meeting Minutes of November 10, 2021; second by Commissioner Garraty. Motion passed on **8-0** vote.

**Ayes:** Chuck Buss, Chris Garraty, Jim Garrison, Elizabeth Gilbert, Laurene Montero, Joe Nucci, Reylynne Williams, Kyle Woodson

**Nays:** None

**Abstain:** Gregory Larson

**Absent:** None

- 2) Request a Demolition Permit for the BUTLER (GRAY) HOUSE, located at 1220 South Mill Avenue. The applicant is Ken Mushet.

#### Presentation by Staff, Robbie Aaron, Interim Historic Preservation Officer

Mr. Aaron informed the commissioners that applicant Ken Mushet has requested demolition of the house. In the commissioner's packet there are different things that have been filed with the application. Most of them outline the potential financial options that he has if he were to keep the house. Also outlines the potential options that he has if he were to demolish the house. If the application is approved, Mr. Mushet would be able to demo the house. If the application was denied, there would be a stay of demolition for 180 days after which he would be able to demo the house. During the 180 days, Mr. Aaron and City staff would be in communication on what options there are to keep the house. There are a number of options via the Tempe Zoning Code to be able to keep the house. Mr. Aaron stated that he has received an email from the applicant that Mr. Mushet would like to have read into the record which is as follows.

*The best financial option for this parcel is demolition of the existing house to build and sell a large two-unit house. My quality-of-life expectations for this property do not align with the City of Tempe's delivery of services to the area surrounding this property. My family can make more than twice as much profit by developing this parcel. We plan to move to a property that already meets our quality-of-life expectations.*

*Increased security and noise abatement in the new house will help the new owner to address the current deficiencies.*

*The parcel has excellent views of Gammage Auditorium and Birchett Park. I have included a large balcony and many noise reducing windows in the new house plans to highlight the beautiful views.*

*The neighbors in Maple-Ash are great and so are the nearby restaurants, shopping, and entertainment. ASU is directly across the street and the parcel location is great.*

*I have invested significant money and numerous hours improving this property, but I have the painful realization that my ideas and vision are not going to be implemented by the City of Tempe. It is time for me to move on.*

*You can drive past the property and see in the photos that the house is in really good shape compared to how we purchased it early last year. Although that is true, as a property owner in the United States, I should still have the right to get the most profit for my property.*

*The City of Tempe seems to already have committed our taxpayer money to the refurbishing of the existing Angels Baseball Stadium and other projects I feel are a poor use of taxpayer money, leaving them unwilling or unable to support basic quality of life services around my property. It seems very unlikely that there is an interest by the City of Tempe to purchase this house for more than I can make developing it.*

*I believe that delaying the demolition permit is acting in bad faith if the City of Tempe does not have the means or intention to purchase the property based on the profit value of the parcel being developed. In good faith I have offered my financial analysis and I am offering the opportunity to tour the property. If the City of Tempe does not agree that the value of the property includes the stated developed potential of the property, then I believe it is an act of bad faith to delay issuing the demolition permit.*

*With that in mind, I encourage you to approve the issuance of the demolition permit. Thank you for your consideration. Ken Mushet.*

### **Commission Discussion**

Chair Buss asked what the dimensions are of the back of the house to the back property line is.

Mr. Aaron stated that he is not aware of that information. However, it is very significant by looking at it. There could be enough room to subdivide the land and get enough room for two R-2 properties out of the land. However, if Mr. Mushet wanted to develop the area as multiple units and meet the multifamily design standards can be somewhat financially intense. An option that the applicant does have is to add an accessory dwelling unit in the back with an area of maximum 800 square feet. With this option, Mr. Mushet would not have to meet any of the multi-family development standards.

Chair Buss stated that this information is great to know that the applicant does have options to add additional value but does not require demolition. He was surprised that the applicant is rushing to demolition without exploring that option.

Commissioner Montero asked for clarification if the property owner has been on the property for a year.

Mr. Aaron stated that is correct. According to the Maricopa County Assessors site, it was purchased March 2020. After Mr. Mushet purchased the property, he did apply for a couple of certificates of appropriateness for enhancements of the property. He installed new windows and added a fence to the backyard. These were granted by Mr. Southard.

Commissioner Montero stated the property is on the register and is near another historical structure the Woman's House on Mill Avenue. She has concerns about this and believe that this is something that should not be rushed. There are concerns about with the streetcar coming in and if the demolition happens what happens to some of the other buildings. There are so few historic resources left and that stretch of land has nice historical buildings.

Commissioner Woodson stated that he agrees with Commissioner Montero and that the applicant does not seem to have a positive attitude. Seeing that Commissioner Nucci, who was the Historic Preservation Officer at the time, worked to get the property on the Historic Preservation Register in 2004. This should be taken into consideration as the goal was to preserve the home. The home is in a very high-profile place across from Gamage Auditorium, and the streetcar will go by the home. The home could be a rare type of show piece. It would be a nice example of historic preservation that Tempe could present. There should be more attention given to this from the City. He is not sure about the complaints that the applicant has about the City being a poor partner in the process. He suspects that the complaint about the noise and nuisance in the area are correct.

Commissioner Montero stated that she doesn't feel that a year of ownership is long enough time to make those kinds of complaints. She is in agreement with Commissioner Woodson that the area does have some character and the commission needs to do all that they can to preserve it.

Chair Buss stated he is a little puzzled because the applicant has only owned the property for a year and a half. In which the applicant has jumped to conclusions about improvements that he wanted and is going to throw in the towel now. The applicant was aware that the property was historic when he bought it and was historic for 15/16 years before he bought it. In the application, he stated that a new structure would be able to better deal with traffic noise. The applicant could have installed double pane windows when he redid the windows. This could have helped with the noise. The applicant could have done triple pane windows which would have helped even more. Being involved with other activities, there are other areas in Tempe where owners are aggressively developing properties. In the commissioner packet, the application calls for two brand new houses. With ten bedrooms total on the property, it seem like a boarding house. The purview of the commission is encouraging preservation of the homes, which demolition does not do at all. Allowing a guest house in the back will allow for the financial potential that is already there.

Commissioner Larson stated that he is in dismay that the applicant is not present in person. The comments that were made and the materials that were submitted in the application were very hypercritical of the City of Tempe. The Commissioners would have several questions for the applicant if he were in attendance. The review of the application may have taken a different tenure if he was present. At this point, he would support denying the application.

Commissioner Woodson asked if the applicant only owned the property for barely a year, And, is there any indication that this is an investor style where the intention is to demo the home or flip it to get as much money as possible? Where putting two houses on the property is beyond the pale.

Chair Buss asked for Mr. Aaron to clarify on the matter.

Mr. Aaron stated that the R-2 zoning does allow for a duplex. He did not look too deep into the plans to see if they meet setback and lot coverage requirements. In theory, the applicant could put two homes on the property without rezoning the property. As far as rezoning goes, even if the applicant were to demo the property, the historic overlay still sits on the property. In theory, he would still have to come back to the commission for approval of a duplex or anything else that he was looking to build. Or if he wanted to remove the Historic Overlay, he would need to go back through the same process that it took to put the Historic Overlay on. Which would be a full rezoning process that would be heard by Historic Preservation Commission which would make a recommendation to the Development Review Commission, which would make a recommendation to Council. The Council would ultimately decide whether or not to remove the Historic Overlay on the property. The Historic overlay is what determines what one could do with the property.

Chair Buss stated that the R-2 zoning means that the limit is two dwellings on the given property.

Mr. Aaron stated that is correct. To put more than two units on the property, he would need to rezone it to R-3 or R3-R. Which is not uncommon but is for the Southern part of Maple Ash.

Commissioner Montero asked for clarification on what type of funding the applicant would be using on the development. Is there any chance this will be HUD funding or HUD insurance?

Mr. Aaron stated that he is not sure what type of funding if it is personal or if the banks are funding. That information was not shared. The applicant was very hesitant about given any information besides that he wanted to demo the building and put something new on the land.

Commissioner Montero stated that is important information to know because it could trigger federal review process depending on the funding.

Commissioner Woodson stated that looking at the material that was provided a little deeper he notices that there are three options in the packet. One of them looks like the applicant is splitting the parcel and keeping the current house. With accessory dwelling in the back. There is not much change in keeping the old house and building a new house. Versus demolition of the house and doing two new homes on the property.

Chair Buss stated that he did notice this information as well. And was very puzzled on why the applicant wouldn't pursue the less aggressive option. New construction is expensive. By the appearance in the photos, the home is well maintained.

**Motion** by Commissioner Larson to deny the application for demolition permit for the Butler (Gray) House located at 1220 S Mill Avenue; second by Commissioner Gilbert. Motion passed on **9-0** vote.

**Ayes:** Chuck Buss, Chris Garraty, Jim Garrison, Elizabeth Gilbert, Gregory Larson, Laurene Montero, Joe Nucci, Reylynne Williams, Kyle Woodson

**Nays:** None

**Abstain:** None

**Absent:** None

Chair Buss asked if Mr. Aaron would be able to reach out to the applicant and discuss other options.

Mr. Aaron stated that he can and will. Which is what he will use the next 180 days for. He has talked to Ryan Levesque the Deputy Director of Planning, and his intention is to reach out and have a meeting with him to discuss potential options.

Chair Buss also stated it would be great to have him come and talk to the commission as well to discuss more options.

### 3) Update on Recruitment of Historic Preservation Officer

#### Presentation by Staff, Ambika Adhikari.

Mr. Adhikari informed the commissioners that he will be attending the HPC meetings in the future as the process moves along. The City started recruitment for the position of the Sr. Planner/HPO in September. There was first round of interview in October. The second round of interviews were held at the end of November. The Final round of interviews was done at the beginning of December, and at this point there are three candidates that we have zeroed in and all three are out of state. At this time, there has been an offer made and the City is waiting to hear back if the candidate is going to accept the position. If things work out for this individual, then the next permanent Historic Preservation Officer will be in position physically in Tempe sometime in the second week of February 2022. There is discussion internally with staff to see if the person can begin a few weeks earlier remotely so that the person is up and running by the time that they are in office in February.

#### Commission Discussion

Chair Buss asked when or how soon the City will know that the person is or is not going to accept the position.

Mr. Adhikari stated that they are working with Human Resources and the answer should be forth coming in a week or week and a half.

Commissioner Montero asked if there was an alternate person if the indivial did not accept.

Mr. Adhikari stated that the interview started with six people and in the second interviews they had three and they are ranked for backup. There was an initial rush to get applicants so that they could shadow the incumbent Historic Preservation Officer. Now that this no longer an option. If none of the current candidates materialize, there will be a discussion on whether there is a need to advertise for a longer period and get a bigger pool of applicants.

4) Commission Member Announcements

Commissioner Montero stated that she wanted to let everyone know that the weekend of December 10, 2021 at Pueblo Grande Museum is the annual Indian market. The event will start at 9am and go till about 4pm.

5) City Staff Announcements

Mr. Aaron informed the commissioners that he obtained his undergraduate degree in Urban Planning from Arizona State University. Has a graduate degree in Urban Planning from the University of Arizona. Has been doing Planning for about 8 years now. Started in Yakima Washington then came back to the City of Tempe. Graduate from McClintock High School in 2006. Is willing and able to help out till there is a permanent person in position.

Mr. Smith informed the commissioners that the Peterson House is open again for the Holiday season on Saturday and Sunday from 10am to 2pm.

Hearing adjourned at 6:55pm

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Prepared by: Brittainy Nelson, Administrative Assistant  
Reviewed by: Ambika Adhikari

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