

2023

Tucson-Pima County Historical Commission  
Plans Review Subcommittee (PRS)

LEGAL ACTION REPORT/Minutes

Thursday, April 27, 2023

Pursuant to safe practices during the COVID-19 pandemic, all in-person meetings are cancelled until further notice. This meeting was held virtually to allow for healthy practices and social distancing. The meeting was accessible at provided link to allow for participating virtually and/or calling in.

Note: A recording of the entire meeting (audio/video) can be accessed at <https://www.youtube.com/playlist?list=PLUfRGd7RxAUv6rMbRNEurjg1iY8N4ZALR>

1. Call to Order and Roll Call

Meeting called to order at 1:02 P.M., and per roll call, a quorum was established.

Commissioners Present: Carol Griffith, Joel Ireland, Savannah McDonald, Jan Mulder (Acting Chair), Rikki Riojas (lost connection from 1:48 to 1:53 P.M.)

Commissioners Excused/Joined Late: Teresita Majewski (Chair)

Applicants/Public Present: Irene Fernandez, Rose Halstead, Jill Heater, and Aaron Heather (property owners), Elaine Hill (Chair, Fort Lowell Historic Zone Advisory Board [FLHZAB]).

Staff Present: Jodie Brown, Michael Taku, and Wyatt Berger (all Planning and Development Services Department)

2. Approval of the Legal Action Report/Minutes for the Meeting of April 13, 2023

**Motion:** It was moved by Commissioner Griffith to approve the Legal Action Report/Minutes for the meeting of April 13, 2023, as submitted.

Commissioner Ireland seconded the motion.

The motion passed unanimously by a roll call vote of 5-0. (Chair Majewski absent)

3. Historic Preservation Zone Review Cases

*UDC Section 5.8/TSM 9-02.0.0/Historic District Design Guidelines/Revised Secretary of the Interior's Standards and Guidelines*

3a. SD-0223-00027/TC-RES-1222-01675, 5360 East Fort Lowell Road

Construction of a new perimeter wall and landscaping remodel  
Full Review/Fort Lowell Historic Preservation Zone  
Contributing Resource/Rehabilitation Standards

Staff Brown provided background on this case, which was heard at the FLHZAB meeting of February 28, 2023. After making a motion that was not seconded, the original motion was amended to approve the case with several conditions, and this motion was also not seconded. A new motion was made and seconded to approve the case with additional conditions to provide more variation in both wall height and wall location along the west property line rather than east, to approve the proposed gate as presented, to allow the wall to be constructed in front of the existing wood fence, and to ensure the proposed pony wall also varies in height. The motion passed 3 to 1. The board strongly encouraged the applicant to discuss the proposed landscaping with Mike Bell, a landscape architect on the FLHZAB.

Staff Brown then read into the record two public comments regarding the present case (comments had been shared with PRS members prior the meeting). The first comments were from adjacent property owners Rose Holstad and Irene Fernandez and included maps. Their comment focused on the Heaters' pool equipment encroaching on the neighbor's property, an ocotillo fence that can't be used to meet pool barrier requirements or have additional ocotillo attached as part of the landscape design, an easement that needed to be observed, and issues relating to acknowledgment of the property line. Finally, they expressed concern about having to take care during construction to avoid damaging the historic mesquite bosque. The second comment (received late) was from Elaine Hill, chair of FLHZAB. Ms. Hill expressed serious concerns regarding 5354 and 5360 East Fort Lowell. She noted that the review of the new wall and landscape should only be considered in context of the bigger renovations previously described as planned, but not submitted for review [note: Ms. Hill's comments on items not under review at today's meeting are largely omitted here]. The addition of a new 6-foot front east-west site wall north of the existing wood fence will block the west view of the 5460 house and completely block the rear house at 5354 East Fort Lowell. This is in direct violation of the 9-09.4.0.0.3 Enclosures guidelines, which state that the height of a new privacy wall or fence cannot obstruct the public view of buildings and structures from the street. The proposed wall will entirely block the separately addressed house at the rear, which was a separate parcel until the lots were recently combined, and which is now visible through openings. Additionally, the State Historic Preservation Office Guidelines regarding Front Walls/Fences that provides guidance on walls state that solid front yard walls/fences shall be no more than 48 inches tall. The current solid wooden board picket fence predates the Historic Preservation Zone (HPZ) and was never approved by the HPZ board. The new wall is a direct violation of guidelines and should be denied. ... No west elevation drawings were provided, but changes to the historic fabric on the west patio wall are proposed, including a new opening for a gate, removal of the west window, and the addition of a north-south wall. Finally, exposed modern gate hardware is not compatible with the historic fabric of the house. Recommendations to vary the perimeter wall height and to meander the wall on the east and south property lines are not shown on plans, and use of a

neighbor's fence as a pool enclosure is not acceptable. In conclusion, I strongly recommend that the proposed changes be denied. These changes are in direct violation of the guidelines and criteria set forth by the FLHZAB and the Tucson Unified Development Criteria. I urge the [sub]committee to take these concerns seriously.

The project architect, Paul Reimer, did not attend today's meeting. Property owner Jill Heather presented the case, and her husband, Aaron Heather, was also present.

Discussion was held. Staff Brown noted that PRS reviewed the same plans as were reviewed by FLHZAB and that both properties are contributing resources. Acting Chair Mulder asked Ms. Hill to summarize her comments for PRS. She noted that the north wall is the front wall, the west wall is along the alley, and the stub wall is a third wall.

*[Commissioner Riojas lost her connection from 1:48 to 1:53 P.M., but the quorum was not lost during her brief absence.]*

Action was taken.

**Motion:** It was moved by Commissioner Riojas to continue the review process. Once the wall has been revised in accordance with the recommendations from the Fort Lowell [Historic Zone] Advisory Board, and also once there is confirmation from SHPO [the State Historic Preservation Officer] that the proposal of the 6-foot wall, specifically on the north end, will not affect the [National Register of Historic Places] listing status [i.e., will not cause the property to be delisted] of the property that is located in the southern portion of the parcel.

Commissioner Ireland seconded the motion. Discussion ensued, and the motion was modified by the mover with agreement from the seconder.

**Modified Motion:** It was moved by Commissioner Riojas to continue the review process. Once the wall plans have been revised in accordance with the recommendations from the Fort Lowell [Historic Zone] Advisory Board, plans to include additional visibility of the house from the north side fence, the [revised] plans should be submitted to the State Historic Preservation Office for review and confirmation from SHPO [the State Historic Preservation Officer] that the proposal for the 6-foot wall, specifically on the north end, will not affect the [National Register of Historic Places] listing status of the property that is located in the southern portion of the parcel [i.e., will not cause the property to be delisted].

The motion passed unanimously by a roll call vote of 5-0. (Chair Majewski absent)

4. **Task Force on Inclusivity Report Recommendations**

4a. **Discussion on Best Practices for Naming of City- and County-Owned Physical Assets**

No report was given.

5. **Current Issues for Information/Discussion**

5a. **Minor Reviews**

Staff Taku reported that two minor reviews for signs were completed recently, with Commissioner Riojas present from PRS. The reviews were at 434 E. University Boulevard for El Rio and Udall signs respectively. A minor review at 261-268 N. Main Avenue for a roof shingle is upcoming in the El Presidio Historic Preservation Zone, and Commissioner Ireland agreed to assist.

5b. **Appeals**

Staff Taku noted that there are no current appeals.

5c. **Zoning Violations**

Staff Taku noted that there are ongoing and pending cases being worked on for compliance and/or in the review process, and that staff are working with their zoning violation code enforcement liaison. As soon as they are ready, they will be brought to PRS.

5d. **Review Process Issues**

No review process issues were raised.

6. **Summary of Public Comments (Information Only)**

Two public comments were received (see Item 3a, above).

7. **Future Agenda Items for Upcoming Meetings**

The next scheduled meeting is May 11, 2023, and Staff Brown expects a courtesy review for the County (Ajo Curley School Gymnasium) and review of a park project.

8. **Adjournment**

Meeting adjourned at 2:09 P.M.