Tempe Historic Preservation Commission [Tempe HPC]
MEETING MINUTES
Date:    THURSDAY, July 10, 2014
Location:   Hatton Hall    34 East Seventh Street
Commissioners Present:   Anne Bilsbarrow, Chuck Buss, Andrea Gregory,
                        Lauren Proper, Korri Turner
Staff Present:   Kimmy Feldbauer, Hansen, Billy Kiser, Dave
                        Nakagawara, Joe Nucci, Jared Smith, Mark Vinson
Public Present:  Kate Borders, Lane Carraway, Scott Manion, Victor Linoff
Call to Order:   6:05 P.M., Andrea Gregory, Chair

Introduction:    Kate Borders, new Executive Director of Downtown Tempe
Community (DTC).
- Overview of DTC objectives
- Relationship between DTC and Tempe preservation
- Discussion of current DTC projects – rebranding community image
- Borders intends to seek HPC input on future DTC initiatives
- DTC plans to organize events to emphasize historic buildings in
downtown Tempe
- Historic Preservation can dovetail with downtown Tempe informational
and way-finding signage projects
- Overview of Walk-Through History Tours and previous sponsors
- Borders requests Walk-Through History tour for DTC staff to familiarize
them with historic preservation and Tempe history

1. Call to Audience   NO REPLY
2. Approval of HPC Minutes 05/08/2014
   MOTION [BILSBARROW]:  MOVE TO APPROVE TEMPE HPC MEETING
   MINUTES FROM 05/08/2014, SECOND [BUSS], APPROVED 5-0.
3. Discuss & Consider Ordinance No. O2014.22, amending Chapter 2,
Article V, Tempe City Code
   • Structure of HPC has been modified to eliminate two alternate members
and instead have all nine commissioners serving in full capacity with voting
capabilities.
   • The effect of this change is to make HPC quorum 5 members, rather than 4.
   • This will require greater emphasis on commissioner commitment to attend
meetings
   • Without five-person quorum, business must be conducted on a consent-
agenda, meaning no discussion can occur
   • Nucci: overview of consent-agenda procedures
   • Discussion on holding “special meetings” during months when a quorum
cannot be attained
   • Current commissioners will be requested to reevaluate their commitments
and if unable to attend meetings regularly, may consider resignation
4. Introduction of Urban & Environmental Planning Masters Student Kimmy Feldbauer
   • Overview of prior experience with City of Phoenix warehouse district
   • Focus on community development for social equity
   • Emphasizes multilateral connection between sustainability, planning, and preservation
   • Interested in adaptive reuse and economic development through preservation-oriented planning

5. Discuss & Consider Historic Preservation Plan Update
   • City of Phoenix has released a draft of the city’s new Historic Preservation Plan; commissioners were provided with a copy of this draft for review
   • Phoenix emphasized community engagement in the formulation of its plan
   • Nucci: will request that either Erika Finbraaten or Liz Wilson (both involved in producing the new Phoenix HP Plan) give a presentation at an upcoming HPC meeting
   • Vinson: discussion of Phoenix funding sources for HP Plan (bonding, block grants, etc.)

6. Discuss & Consider Historic Preservation Ordinance Update
   • Paragraph (H) of proposed ordinance update, regarding proximity effects, is NOT being discussed, as it was already voted down by consensus at May HPC meeting.
   • Paragraph (1) discussion: Proposed ordinance amendment regarding archaeological monitoring
     • Nucci: 16% of Tempe land area is considered archaeologically sensitive – much of this area is in the downtown / Salt River area.
     • Nucci: cultural patrimony of SRP-MIC and GRIC is at stake; these Communities are our neighbors and are important partners with the City of Tempe in a variety of initiatives
     • Ordinance amendment intended to better inform planned construction to avoid project delays in areas that are known to have a high probability of containing Hohokam burials
     • Gregory: Rick Karl provides archaeological data to City of Phoenix regarding boundaries of sensitive areas; she has requested that he provide a cost estimate to do the same for the City of Tempe
     • Arizona state statute requires compliance on human remains monitoring, but not on any other archaeological features.
     • City-owned properties are already in compliance with this mandate; ordinance revision is intended to encourage compliance on the part of private developers
     • HPC does not seek to place undue financial burdens on developers
     • Nakagawara: Comment on proposed Paragraph (1) revision: expect revision of the language by Tempe City Attorney
     • Nakagawara discussion of ordinance updates, Cavalier Hills situation, and Prop 207
     • Nakagawara: Prop 207 changed the nature of historic preservation; Tempe must revise Section 14-A of the City Ordinance to properly reflect methods of enforcement
     • Nakagawara: Ordinance language must unambiguously address Prop 207
     • Nakagawara: Historic designation involves zoning overlay; the city cannot take such action under Prop 207 without risking property-owner claims of diminution of value and, by extension, citizen lawsuits seeking compensation for pecuniary loss related to property value
     • Nakagawara: Prop 207 waivers are intended to prevent such legal action; however, such waivers are only feasible for the historic designation of a single property, and are not practicable for a historic district with many properties (in the case of Cavalier Hills, 188 properties)
Nakagawara: Concept of “50+1” for zoning waivers provides a simple majority scenario where 49% of a district might be in discordance, leaving a large number of property owners with a legitimate claim against zoning overlay

Nakagawara: HP ordinance must be revised in a manner that speaks to the interests of both property owners as well as preservation advocates without ambiguity

Nakagawara: Discussion of possible “Swiss Cheese” historic districts in which property owners subscribe to the district on an individual basis, thus avoiding a blanket overlay zoning of all properties, and therefore those not wishing to participate in historic designation are not affected. This concept goes beyond merely “opting out” with a waiver.

Nakagawara: Outline of Goals for ordinance update: must comply with current law; must comply with current interpretation of law; must normalize enforcement; must reflect consistency of practice; must inform design guidelines

Nakagawara: Tempe residents should serve as advisers in the ordinance update process

Nakagawara: projected time frame for formulating an ordinance update: Fall 2014

Nakagawara: Residents have been more concerned with perceived loss of rights concurrent with historic designation, rather than property value fluctuations emanating from same process

Nakagawara: Primary cause of dissent in Cavalier Hills was uncertainty over the effect of designation on property rights, i.e., what can the homeowner do to their home after designation, what is the permitting process, what are the potential burdens of permitting?

Nakagawara: To achieve homeowner consensus in a proposed historic district, the ordinance needs to reflect transparency in law with city policy and enforcement procedures

Bilsbarrow: Requests that two audience members (Cavalier Hills residents Scott Manion and Lane Carraway) provide their viewpoints on historic designation process

Manion: Was a proponent of historic designation in Cavalier Hills; government control of property rights was the primary concern among those who favored district designation; homeowners were concerned about the methods and extent of city enforcement; proponents recognized community pride, crime reduction, rental property reduction, and potential property value increases as benefits of historic designation

Carraway: Sees City of Tempe preservation policies to be antiquated and believes that city staff did not truthfully present information about historic designation to Cavalier Hills homeowners

Carraway: Emphasizes distinction between federal and city tax reductions (there being none for the latter) and expresses concern about misleading presentation of facts regarding purported 50% property tax reductions

Carraway: Cavalier Hills homeowners saw the City’s presentation on proposed historic designation as “improper and deceptive,” promulgating “fear and uncertainty” among community members

Carraway: Regarding historic preservation, City website and City ordinance remained contradictory during Cavalier Hills process, causing further ambiguity

Carraway: Cavalier Hills neighborhood would benefit more from economic development and home renovation, as opposed to historic designation, which would inculcate architectural stagnation

Carraway: Purported tax reduction should not be the City’s selling point for preservation

Carraway: Federal government is the only entity that provides tax-related benefits; the City of Tempe does not do this; believes this differentiation was misrepresented to residents

Carraway: Preservationists should reach out to longtime community residents to seek perspectives on historic designation prior to approaching the at-large community with neighborhood meetings
• Proper: Who is responsible for creating design guidelines once a district is designated historic?
• Nucci: Design guidelines are created by city staff in cooperation with district property-owners
• Nucci: Emphasizes that design guidelines are just that—guidelines—and are not regulations
• Nakagawara: ordinance language must properly address design guidelines and enforcement in historic districts
• Nakagawara: Notes that interim guidelines, in the form of the Secretary of the Interior’s Standards for Rehabilitation, are enacted initially upon designation of a district, and these guidelines remain in place until a specific guidelines are produced specifically for the district
• Discussion of recent design guidelines process in Borden Homes Historic District
• Nucci: 95% of permit requests in historic districts are approved over-the-counter and do not require HPC review; this is done by the issuance of a “Certificate of Appropriateness” by City staff, which eases the permitting process; this should be codified in updated ordinance
• Carraway: Last paragraph of ordinance states that design guideline violations result in fines and liens on property
• Carraway: Deviation from federal guidelines for historic properties negates contributing status of a property and, by extension, revokes any tax benefits; the deviations between city and federal guidelines and resulting (potential) penalties is confusing for residents and is not properly represented in current ordinance
• Manion: Ordinance needs clear language differentiating local, state, and federal levels of preservation and methods of compliance for each, as well as benefits for each.
• Proper: Taxation elements need to be clarified in ordinance, as well as the city’s historic preservation incentives apart from federal incentives; different standards for contributing status must also be clearly codified
• Buss: Designation at the city level should not be construed as a guarantee of federal listing (national register), from whence property tax incentives emanate
• Discussion on hiring consultants for national register nominations (federal listing) and the time frame for doing so; disagreement expressed over this time frame, with Buss emphasizing Borden Homes national register nomination process (approximately one year) and Carraway emphasizing information from the National Park Service indicating a 3-6 year time frame. Precedent (in Tempe) leans towards the 1-2 year time frame.
• Buss: Indicates willingness to poll residents of Borden Homes (nationally-listed historic district) to determine and quantify property tax breaks since federal designation; will also obtain similar data from City of Phoenix historic districts (nationally-listed) for comparison
• Turner: Asks Carraway if, upon revision of the ordinance, he would serve as an advocate for historic designation in Cavalier Hills. Carraway indicated he is not willing to do so; believes that historic designation does not make sense for his neighborhood and irreparable damage to the sense of community has been done
• Buss: Every neighborhood varies in sentiment; Tomlinson Estates and Borden Homes embraced historic designation
• Carraway: Neighborhood sentiment has much to do with size; Cavalier Hills, at 188 properties, is too large to achieve a significant majority of consent to designation.
• Commission thanks Manion and Carraway for providing property-owner perspectives

7. Discuss & Consider Historic Preservation Incentives Update
• Nucci: Discussion on incentive concepts (bonding for preservation grant programs, rebating permit fees)
• Vinson: incentives might feasibly overlap with City’s forthcoming HIPP program
• Gregory: What is the next step? Nucci: HPC should present incentive proposals with identifiable costs to Dave Nakagawara
• City staff and interns will conduct research on property taxes and provide quantifications
• Nucci: Should try to include THPF in the incentives process; perhaps an extension of the Foundation’s plaque program

8. Discuss and Consider Graduate Student Intern Program Projects
• Kiser: National Register Nominations for Moeur Park and Kirkland-McKinney Ditch have been completed and the packets delivered to SHPO; determinations from the Keeper should be received in 4-6 months

9. Discuss and Consider Chair/Staff Updates:
• Nucci: Upcoming Milestones: 20 (Tempe HPO is approaching 20th anniversary in 2015); 50 (City Council approved THPR #49 and we are now seeking Property #50); 3,000 (Tempe HPO Facebook page is approaching 3,000 “friends”)

10. Current Events / Announcements / Future Agenda Items
THPF Candidate Forum to be held 08/08 2014 at 6:00 p.m. at Tempe History Museum Community Room
Next HPC Meeting Date Thursday 08/14/2014 at 6:00 p.m. at Hatton Hall, 34 E 7th Street

Meeting adjourned at 7:55 PM

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Andrea Gregory, Chair
-minutes scheduled for HPC approval on 08/14/2014
FREQUENTLY USED ABBREVIATIONS OR ACRONYMS

- CDD – City of Tempe Community Development Department: Established February 15, 2005, by City Manager Will Manley the CDD consists of six divisions; Economic Development, Housing Services, Redevelopment, Neighborhood Enhancement, Rio Salado/Town Lake, and Special Projects, as well as the Community Design Studio / City Architect. The Tempe Historic Preservation Office is an agency of the Special Projects Division.
- CLG – Certified Local Government: In 1980, Congress established a framework for local preservation programs through an amendment to the National Historic Preservation Act empowering Arizona cities and counties to become Certified Local Governments (CLGs). Once certified, these entities are eligible for specialized assistance and funds for developing their own local preservation programs and entitled to comment on NR and other SHPO activities within their boundaries. The City of Tempe became a CLG in 1995.
- DDA – Development & Disposition Agreement: a redevelopment contract between the City and one or more developers or redevelopers specifying terms and conditions for construction or reconstruction.
- DSD – City of Tempe Development Services Department: dealing with Building Safety, Land Use, Planning and Zoning
- GRIC – Gila River Indian Community: is an alliance of two tribes, the Akimel O’odham (Pima) and the Pee Posh (Maricopa). Established by Executive Order in 1859, the Community covers more than 600 square miles and is the largest indigenous community in the Phoenix metropolitan area. GRIC helps make the Tempe Preservation Graduate Student Intern Program possible through a generous grant of State-Shared Revenue funds.
- HPF – (see Tempe HPF) Tempe Historic Preservation Foundation
- HSRC – (Arizona) Historic Sites Review Committee: Arizona’s official Arizona and National Register of Historic Places review board. The HSRC meets three times during the year to review National Register nominations and advise the State Historic Preservation Officer on nominations to the State and National Registers.
- IEBC – International Existing Building Code: adopted by Tempe City Council by Ordinance No. 2005.89 on December 1, 2005, as part of the code body promulgated by the International Code Council, provides means for preservation of existing Tempe building inventory through reasonable and feasible code processes.
- IRS – Issue Review Session: informal Mayor and Council public meeting where members of the public may come forward and talk with City Council during the “Call to the Audience” prior to regular Council meetings.
- NPS – National Park Service: the City of Tempe is a Certified Local Government through an inter-governmental agreement with the United States Department of the Interior National Park Service and the Arizona State Historic Preservation Office.
- NRN – National Register Nomination: An application to list a property on the National Register of Historic Places is reviewed by the SHPO and then by the Arizona Historic Sites Review Committee (Sites) before formal application is made to the Keeper of the National Register in Washington DC.
- PAD – Planned Area Development: site plan overlay to define development standards for a specific project.
- SHPO – State Historic Preservation Office: a division of Arizona State Parks, responsible for the identification, evaluation, and protection of Arizona’s prehistoric and historic cultural resources; established by the National Historic Preservation Act of 1966.
- SRP-MIC – Salt River Pima-Maricopa Indian Community: created by Executive Order on June 14, 1879 by President Rutherford B. Hayes, the Salt River Pima-Maricopa Indian Community (SRPMIC) is located in Maricopa County, aside the boundaries of Mesa, Tempe, Scottsdale, Fountain Hills and metropolitan Phoenix.
- Tempe HPC – Tempe Historic Preservation Commission: Created by Ordinance 95.35, adopted November 9, 1995. Members serve three years terms with the exception of the initial appointments; charged with administering the Tempe Historic Preservation Ordinance and Plan, as well as advising Mayor / Council on all matters related to historic preservation.
- Tempe HPO – Tempe Historic Preservation Office: Responsible for the identification and conservation of Tempe’s prehistoric and historic cultural resources, the Office uses Federal, state, and city funding for the historic preservation program and assists owners of historic properties with grant applications, property maintenance, and preservation activities; provides staff support to the Tempe HPC.
- THM – Tempe Historical Museum: Located at 809 E. Southern Avenue in Tempe, the Tempe Historical Museum is a center where the community comes together to celebrate Tempe's past and ponder the future. Permanent and changing exhibits, educational programs, and research projects generally focus on some aspect of Tempe's history within the context of state and national events.
- TOD – Tempe Transportation Overlay District: placed to encourage appropriate land development and redevelopment consistent with and complementary to the community’s focused investment in transit, bicycle, and pedestrian infrastructure in certain geographic areas of the City; typically in association with the light rail.
- ZDC – Zoning & Development Code: Adopted by Mayor and Council on January 20, 2005, effective February 22, 2005, the ZDC implements Tempe General Plan 2030 by encouraging creative development of the built environment in order to build a community that promotes the livability and uniqueness of Tempe; establishes zoning districts and development standards.