



**HISTORIC LANDMARK COMMISSION MEETING MINUTES
1st FLOOR, CITY COUNCIL CHAMBERS
CITY HALL BUILDING, 300 N. CAMPBELL
AUGUST 19, 2013
4:00 P.M.**

The El Paso Historic Landmark Commission held a public hearing in the City Council Chambers, 1st Floor, City Hall Building, August 19, 2013, 4:00 p.m.

The following commissioners were present:

Chairman David Berchelmann
Commissioner Edgar Lopez
Commissioner Randy Brock
Commissioner Ricardo Fernandez
Commissioner Cesar Gomez
Commissioner John L. Moses
Commissioner William C. Helm II

The following commissioner was not present:

Commissioner Beatriz Lucero

The following City staff members were present:

Ms. Providencia Velázquez, Historic Preservation Officer, City Development Department, Planning Division
Ms. Kristen Hamilton, Assistant City Attorney, City Attorney's Office

Chairman Berchelmann called the meeting to order at 4:10 p.m., quorum present.

CHANGES TO THE AGENDA

2. *PHAP13-00019, 801 Magoffin Avenue, property owner requested the item be postponed to the next regularly scheduled meeting.*

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Brock AND UNANIMOUSLY CARRIED TO POSTPONE TO THE NEXT REGULARLY SCHEDULED MEETING, PHAP13-00019, PROPERTY LOCATED AT 801 MAGOFFIN AVENUE.

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I. CALL TO THE PUBLIC – PUBLIC COMMENT

None.

II. REGULAR AGENDA – DISCUSSION AND ACTION

Certificate of Appropriateness

- 1. PHAP13-00018:** Being 8 Castle Heights 30 to 33 (12,000 sq. ft.), City of El Paso, El Paso County, Texas
- Location: 3000 Silver Avenue
Historic District: Manhattan Heights
Property Owner: Arthur and Irma Ramirez
Representative: Arthur and Irma Ramirez
Representative District: 2
Existing Zoning: R-3/H (Residential/Historic)
Year Built: 1928
Historic Status: Landmark
Request: Certificate of Appropriateness for the removal of windows, arches, a column, and steps at the rear façade, the modification of the masonry opening to accommodate double-doors, and the construction of masonry steps.
- Application Filed: 08/05/13
45 Day Expiration: 09/19/13

Ms. Velázquez gave a presentation and noted the applicant sought approval for a Certificate of Appropriateness for the removal of windows, arches, a column, and steps at the rear façade, the modification of the masonry opening to accommodate double-doors, and the construction of masonry steps. Per the site visit, Ms. Velázquez noted the proposed construction would not be visible from the alley. Staff did not receive any comments from the neighborhood association, in favor of or in opposition to, the request.

STAFF RECOMMENDATION

The Historic Preservation Office recommends **APPROVAL WITH MODIFICATIONS OF THE PROPOSED SCOPE OF WORK** based on the following recommendations:

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The Design Guidelines for El Paso's Historic Districts, Sites, and Properties recommend the following:

- When repair is not feasible, door and window products will be reviewed on an individual basis using the following criteria: Architectural and historical compatibility; Comparison to the original profile; Level of significance of original doors and windows to the architectural style of the building.
- Locate decks at the rear of the structure, or in a location not readily visible from the street.
- Select appropriate materials for patios, including wood, concrete, brick and stone to match the original.

The Secretary of the Interior's Standards for Rehabilitation recommend the following:

- New work should be compatible with the character of the setting in terms of size, scale design, material, color, and texture.
- Design new work to be compatible in materials, size, scale, and texture.

Commissioner Berchelmann asked if commissioners had any questions of staff.

Commissioner Lopez felt that removal of one of the columns would necessitate additional support somehow.

Ms. Velázquez concurred and added that Building Permits & Inspections staff will review the plans prior to issuing any permits. Additionally, the property owner must submit an engineer's report.

Commissioner Berchelmann asked if commissioners had any questions and/or comments for the representative. *There were none.*

Chairman Berchelmann asked if there was any comments/discussion amongst the commissioners. *There being none.*

MOTION:

Motion made by Commissioner Moses, seconded by Commissioner Lopez AND UNANIMOUSLY CARRIED TO APPROVE.

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2. **PHAP13-00019:** 215 Campbell 1 To 3 & W 2 Ft Of 4 (9600 Sq. Ft.),
City of El Paso, El Paso County, Texas
- Location: 801 Magoffin Avenue
Historic District: Magoffin
Property Owner: CDA Corte 1581 401K Plan
Representative: Jesus Terrazas
Representative District: 8
Existing Zoning: C-4/H (Commercial/Historic)
Year Built: 1925
Historic Status: Landmark
Request: Certificate of Appropriateness for the painting of
the façade after-the-fact.
- Application Filed: 08/07/13
45 Day Expiration: 09/21/13

MOTION:

Motion made by Chairman Berchermann, seconded by Commissioner Brock AND UNANIMOUSLY CARRIED TO POSTPONE TO THE NEXT REGULARLY SCHEDULED MEETING, PHAP13-00019, PROPERTY LOCATED AT 801 MAGOFFIN AVENUE.

3. **PHAP13-00020:** Being 30 Manhattan Heights w. 66 ft. of 6, City of El Paso, El Paso County, Texas
- Location: 2801 Silver Avenue
Historic District: Manhattan Heights
Property Owner: James Moreno and Rachel Carver
Representative: James Moreno and Rachel Carver
Representative District: 2
Existing Zoning: R-3/H (Residential/Historic)
Year Built: 1950
Historic Status: Contributing
Request: Certificate of Appropriateness for the installation of
a wooden fence after-the-fact.
- Application Filed: 08/12/13
45 Day Expiration: 09/26/13

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Ms. Velázquez gave a presentation and noted the applicant sought approval for a Certificate of Appropriateness for the installation of a wooden fence after-the-fact. The property is located on the corner of Silver Avenue and Elm Street.

A few weeks ago, Ms. Velázquez stated that she had received an email from the property owner regarding building a fence at the rear and requesting information. Per the site visit, she discovered that the property owner had already installed the fence. As the fence does not meet guidelines, Ms. Velázquez could not approve administratively. The fence is approximately six feet high and made of wood, a material not widely used within the historic district. Properties surrounding this show either rock walls or wrought iron fences.

At this time, Ms. Velázquez read into the record a letter sent by Mr. Craig Peters, President, Manhattan Heights Association which noted, among others, that “construction of wood fence does not comply with the guidelines set forth to preserve and protect the unique character of the home or the neighborhood.”

STAFF RECOMMENDATION

The Historic Preservation Office recommends **DENIAL OF THE PROPOSED SCOPE OF WORK** based on the following recommendations:

The Design Guides for El Paso’s Historic Districts, Sites, and Properties recommend the following:

- *The height of the proposed fence should complement the structure and should not obstruct the public’s view of the building. Any proposed fence higher than 32” solid or 48” open, measured from ground level, at front property line or a side yard property line on a corner lot, shall be reviewed by the HLC.*
- *Introduce new fences and walls compatible in material, design, scale, location, and size with original fences and walls in the historic district.*

The Secretary of the Interior’s Standards for Rehabilitation recommend the following:

- *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.*

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Had the property owner followed proper procedure, Ms. Velázquez stated that she would have recommended a black metal picket fence with some shrubbery behind to create screening. She believes that a rock wall exists behind the wooden fence.

Commissioner Berchelmann asked if commissioners had any questions of staff.

Regarding properties located on corner lots, Ms. Velázquez explained that the maximum height of the fence allowed is 48" from ground level. Ms. Velázquez recommends removal of the fence to be replaced with fencing of a compatible material.

Commissioner Berchelmann asked if commissioners had any questions and/or comments for the property owners.

Mr. James Moreno and Ms. Rachel Carver, property owners, were present.

Mr. Moreno gave a chronological history of emails and construction of the fence as follows:

CHRONOLOGICAL HISTORY – MR. JAMES MORENO

1. July 23rd - Sent email to Ms. Velázquez requesting review
2. July 23rd - Ms. Velázquez replied to Mr. Moreno's email requesting fence dimensions
3. July 23rd – Mr. Moreno responded to Ms. Velázquez's email noting fence dimensions
4. July 25th – Had not received a response from Ms. Velázquez, sent email to Ms. Velázquez requesting clarification
5. July 27th and 28th – Fence was constructed
6. July 29th – Received response from Ms. Velázquez

At this time, Mr. Moreno distributed photos to commissioners showing his property before and after the fence was constructed. He explained that he had extended the side yard to allow room for his dog to play in. He stated that, in October, he had spoken to Ms. Julie Rutledge, of the Manhattan Heights Neighborhood Association, regarding what to do with the Italian Cypress that was growing along the parkway. Ms. Rutledge requested he contact Ms. Velázquez requesting an Administrative Review. Mr. Moreno explained that the rock wall is starting to crumble. The rock wall is located behind the tree and varies in height from 5½ feet to six feet, due to the grade.

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Chairman Berchermann explained that, due to the sun, wooden fences wear out rather quickly. Should the city require removal of the wooden fence, would you maintain the rock wall in the current location or install a metal picket fence?

Ms. Carter responded it was for that reason that the wood had been treated prior to installation.

Mr. Moreno stated he would need some time; the wooden fence would not come down immediately. He clarified that he intends to demolish an eight foot section of the rock wall; additionally, he intends to build an open/close gate for his dog/dog run.

Ms. Velázquez noted that, last year, she had exchanged emails with Mr. Moreno regarding the Italian Cypress.

Mr. Moreno explained that, with regard to saving the wooden fence, he could shorten the wooden fence to resemble a picket fence; additionally, he could remove individual planks so that there would be gap between.

Ms. Carver noted that the guidelines for the Manhattan Heights Historic District allows for wood fences. The height of fence was for her dog.

Mr. Moreno clarified that the fence was not constructed hastily nor is it uneven.

At this time, Ms. Velázquez read into the record, *Design Guidelines for El Paso's Historic Districts, Sites, and Properties*, **Guidelines for Fences, Walls and Site Features**,

3. *"Retain fences and walls that contribute to the historic character of the property and the district where possible. If replacement is necessary, replace only the deteriorated element to match the original in dimension, proportion, material, texture, and detail."*
4. *"Introduce new retaining walls constructed of brick, stone, or stucco covered concrete in a design consistent with the property and the neighborhood. It is not appropriate to construct retaining walls of inappropriate materials such as landscape timbers, railroad ties, or concrete blocks where visible from the street."*
5. *"Introduce new fences and wall compatible in material, design, scale, location, and size with original fences and walls in the historic district."*
6. *"Retaining walls facing the street should be constructed according to the original design and materials."*

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7. *“The height of the proposed fence should complement the structure and should not obstruct the public’s view of the building. Any proposed fence higher than 32” solid or 48” open, measured from ground level, at front property line or a side yard property line on a corner lot, shall be reviewed by the HLC. Any proposed fence higher than 6 ft., between buildings on an interior property line or across the rear property line, shall be reviewed by the HLC.”*

Regarding the reference to a retaining wall, as read by Ms. Velázquez, Mr. Moreno clarified that his fence was not a retaining wall.

Ms. Carver added the view of the house was not obstructed; however, the view of the rear yard has been diminished, which was the intent of the wood fence.

Per the guidelines, Ms. Velázquez explained that the height of the fence is measured from the interior fill level.

Chairman Berchelmann commented on following proper procedure versus after-the-fact.

Mr. Romero noted that, per the guidelines, staff is to provide an answer, approval or denial, within one day. He added that was a factor in determining whether or not the fence would be constructed that weekend. He referred to a flowchart within the Design Guidelines.

Ms. Velázquez clarified that whether or not staff provides an answer within one day does not allow property owners to proceed. Also, that the guidelines state that an answer for an administrative review may be given in one day but that does not apply to applications for Certificates of Appropriateness.

Design Guidelines for El Paso’s Historic Districts, Sites, and Properties

Historic Preservation Review Process flowchart (page 15)

Regarding the Administrative Review process, Ms. Velázquez clarified that following receipt of all information needed by staff, staff may take as little as one day to review, approve or deny the application

Mr. Romero stated that he did submit the application. To Commissioner Helm, he clarified that the height of the wooden fence is six feet.

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CHRONOLOGICAL HISTORY – MS. VELÁZQUEZ

1. July 23rd – received email from Mr. Romero
2. July 23rd – sent response to Mr. Romero’s email requesting additional information, later that same day, Ms. Velázquez visits the site

Ms. Velázquez conferred with Ms. Hamilton who agreed with Ms. Velázquez that although the flowchart states “One Day Review” that does not mean that the applicant will be approved or denied in one day.

Mr. Romero noted that the flowchart was ambiguous.

Ms. Hamilton explained that nowhere in the guidelines does it state *no response means automatic approval*. Furthermore, should the application not meet the Administrative Review requirements the application will be heard before the Commission.

Ms. Velázquez stated that, in most cases, Administrative Review cases usually require one day to review. Due to the height of the wooden fence being six feet, the request must be heard before the Commission and it requires a Certificate of Appropriateness. Therefore, the one day review did not apply in this case.

Ms. Velázquez clarified that as per the **Design Guidelines for El Paso’s Historic Districts, Sites, and Properties, Guidelines for Fences, Walls and Site Features**, 5. “*Introduce new fences and walls compatible in material, design, scale, location, and size with original fences and walls in the historic district.*” Properties surrounding this showed rock wall or metal picket fences.

Commissioner Moses would have approved the wooden fence had the property owner followed proper procedure. He noted that, per the guidelines, “*Rock, brick, wood and wrought iron are acceptable materials but each case is decided individually.*” Additionally, Commissioner Helm commented on the following guideline language “*The height of the proposed fence should complement the structure and should not obstruct the public’s view of the building. Any proposed fence higher than 32” solid or 48” open, measured from ground level, at front property line or a side yard property line on a corner lot, shall be reviewed by the HLC.*”

Commissioners Lopez and Moses discussed the height of the fence and the property located on a corner lot.

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Commissioner Gomez concurred with staff's recommendation; the fence was not compatible with the neighborhood.

Commissioner Brock stated that he would probably approve the fence.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Gomez TO DENY THE APPLICATION AS PRESENTED.

AYES: Commissioners Lopez

NAYS: Commissioners Brock, Fernandez

At this time voting on the motion ceased to allow clarification of the motion language. The motion is to deny the application to keep the wooden fence, concurring with staff's recommendation to deny the proposed scope of work based on recommendations from the guidelines.

Ms. Hamilton noted that an "Aye" vote indicates commissioners agree with the motion to deny the request.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Gomez TO DENY THE APPLICATION AS PRESENTED.

AYES: Commissioners Lopez, Helm, Gomez, and Chairman Berchelmann

NAYS: Commissioners Brock, Fernandez, and Moses

The motion carries (4-3) and the fence is denied.

- Addresses of property HLC commissioners have requested that HLC staff review or investigate and provide a report to the HLC. If no addresses are submitted in advance and listed under this agenda item, commissioners may announce such addresses under this agenda item. Discussion on property announced at this meeting will take place during the next regularly scheduled meeting. August 19, 2013 deadline for HLC members to request for agenda items to be scheduled for the September 9, 2013 meeting. September 9, 2013 deadline for HLC members to request for agenda items to be scheduled for the September 23, 2013 meeting.

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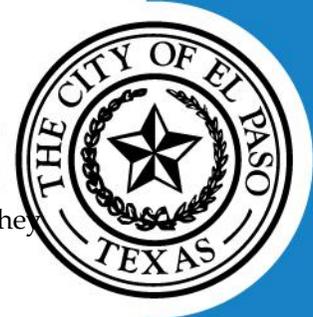
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Chairman Berchelmann asked if commissioners had any addresses they would like staff to review or investigate. *There were none.*

HLC Staff Report

5. Update on Administrative Review Cases since the last HLC meeting for the properties listed on the attachment posted with this agenda.
(See Attachment "A")

Commissioner Berchelmann asked if commissioners had any comments and/or questions for staff. *There were none.*

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Brock AND UNANIMOUSLY CARRIED TO APPROVE THE ADMINISTRATIVE REVIEW STATUS REPORT.

Other Business

6. Approval of Regular Meeting Minutes for August 5, 2013.

Chairman Berchelmann asked commissioners if they had any additions/corrections/revisions. *There were none.*

MOTION:

Motion made by Commissioner Helm, seconded by Commissioner Lopez and UNANIMOUSLY CARRIED TO APPROVE THE REGULAR MEETING MINUTES FOR AUGUST 5, 2013.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Fernandez AND UNANIMOUSLY CARRIED TO ADJOURN THE MEETING AT 4:59 P.M.

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