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City of Phoenix

PLANNING & DEVELOPMENT DEPARTMENT
HISTORIC PRESERVATION OFFICE

Appeal of HP Commission's Decision to the City Council

The **HISTORIC PRESERVATION COMMISSION (HPC)** agenda for 11/15/21 is attached. The decision made by the **HPC** will become final unless a request to appeal that decision is filed in person by the close of business on 11/22/2021.

Any member of the public may, within five calendar days of the **HPC'S** action, request a hearing by the **PHOENIX CITY COUNCIL** on any application. If you wish to request such a hearing, fill out and sign the form below and return it to the Historic Preservation Office in person by the close of business on 11/22/2021.

IMPORTANT

The Hearing Officer, Historic Preservation Commission and City Council all act in a quasi-judicial manner for Certificate of Appropriateness hearings. **There is to be no ex parte communication with any of these entities to include phone calls, e-mails, text messages or meetings.** Supplemental materials may be submitted through the Historic Preservation Office to be included in the packet provided to the hearing body. Check with staff on any deadlines for submission of supplemental materials. Materials provided at the hearing should include copies for the hearing body, staff, applicant, and appellant.

APPEAL FORM

I hereby request that the HP Commission hold a public hearing regarding application number ☒ HPCA ☐ HPDA 2100117 for the property at 309 W. Monte Vista Rd. which was designated ☒ as a part of the Willo Historic District / ☐ individually as

I am aware that the entire application will be up for review and that the City Council may uphold, reverse, or modify the decision of the HPC.

☐ Opposition ☐ Applicant

Name (please print) Tom Doescher on behalf of the Willo Neighborhood Association Governing Board

Street Address: 50 W. Cambridge Ave.

City & State Phoenix, AZ ZIP Code 85003

Telephone 480-695-3506 E-mail: tfdoescher@gmail.com

Signature *Tom Doescher* Date Nov. 19, 2021

Reason for appeal (attach additional documentation if appropriate):

SEE ATTACHED.

FOR STAFF USE ONLY

This decision was appealed from the 11/15/21 hearing to the _____ City Council meeting.

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NOTICE OF PUBLIC MEETING HISTORIC PRESERVATION COMMISSION

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **HISTORIC PRESERVATION COMMISSION** and to the general public, that the **HISTORIC PRESERVATION COMMISSION** will hold a meeting open to the public on **Monday, November 15, 2021, at 4:30 p.m.**

Per the most recent social distancing guidelines from the federal government, no residents will be allowed to attend the meeting in-person.

OPTIONS TO ACCESS THE MEETING

- **Call-in to listen** to the live meeting: Dial 602-666-0783, Enter meeting access code number 2556 923 0795 , and press # again when prompted for the attendee ID
- **Observe the live meeting virtually.**
 - o Register for the event at:

<https://cityofphoenixpdd.webex.com/cityofphoenixpdd/onstage/g.php?MTID=e5b2bc50210946eeb6d1a666faea37fa1>

- **Submit a comment** on an agenda item:
 - Send your comments to: historic@phoenix.gov
 - By: 8:00 am on November 15, 2021
 - Indicate: Item Number and case number, if applicable
- **Register to speak** on an agenda item:
 - Contact Michelle Dodds at 602-262-7468 or michelle.dodds@phoenix.gov
 - By: 8 hours prior to start of the meeting (Staff will make every effort to accommodate requests to speak submitted less than eight hours in advance, however, due to the added demands of facilitating the virtual environment for the public, applicants and other staff members, we may not be able to process requests made less than eight hours before the start of the meeting)
 - o If registered to speak, click on the following link at the time of the meeting to join the event and speak when called upon:

<https://cityofphoenixpdd.webex.com/cityofphoenixpdd/onstage/g.php?MTID=e5b2bc50210946eeb6d1a666faea37fa1>

Note:

- Agenda items may be taken out of order.
- Presentation order (staff report/recommendation; applicant presentation (if applicable); questions from Commission; community comments; applicant response (if applicable); floor closed for Commission discussion, possible motion, and vote.
- Comments may be limited due to time constraints and to ensure all viewpoints are heard.

The Commission may at any time vote to go into Executive Session pursuant to A.R.S. Section 38-431.03.A.3 for the purpose of receiving legal advice from the Commission's attorney regarding any item on the agenda.

The agenda for the meeting is as follows:

1.	Call to order	Dan Klocke, Commission Chair
2.	Introduction of Commission Members and Staff	HP Commission & Staff
3.	Review of meeting minutes from the meeting on October 18, 2021 and the special meeting on October 26, 2021 Action Requested: Approval of Minutes- two separate actions	HP Commission
4.	Public Hearing on Appeal of Historic Preservation Hearing Officer's Decision on Certificate of Appropriateness Application # HPCA 2000508 at 612 N. 5 th Avenue in the Roosevelt Historic District Request: Construct a 3-story four-plex with rooftop deck and roof screening structure behind existing historic dwelling Action Requested: Uphold, Reverse or Modify Hearing Officer's Decision	Helana Ruter, HP Staff, Owner, Ran Holdings LLC Applicant/ Representative and Appellant, Christina Lufkin, Kaiserworks LLC
5.	Public Hearing on Appeal of Historic Preservation Hearing Officer's Decision on Certificate of Appropriateness Application # HPCA 2100117 at 309 W. Monte Vista Road in the Willo Historic District Request: Construct a 2-story, 1,152 sf garage/yoga studio at the southwest corner of the lot with elevated walkway to the main house Action Requested: Uphold, Reverse or Modify Hearing Officer's Decision	Jodey Elsner, HP Staff, Appellant, Tom Doescher, Chairperson Willo Zoning Committee, Owner/Applicant, Jennifer Hunter and Bruce MacArthur
6.	2021-2022 Exterior Rehabilitation Grants Approval presentation and possible action Action Requested: Recommend approval of grant funding	Michelle Dodds, HP Staff
7.	Discussion on possible historic preservation study to look at recommendations for better protecting the city's historic resources Action Requested: Discussion only	Michelle Dodds, HP Staff

8.	Discussion and possible action regarding Historic Preservation General Fund Budget for 2022/2023 Action Requested: Possible action regarding budget	Dan Klocke, Chair
9.	Update on requests for demolition <ul style="list-style-type: none"> • 30-day demolition holds • Properties on the Phoenix Register Action Requested: Information and possible discussion	Maura Jackson, HP Staff
10.	Advocacy and outreach update	HP Commission
11.	Staff updates and requests for information from staff Demolition by Neglect Survey Exterior Rehabilitation Grant Round <ul style="list-style-type: none"> • Economic Development and Equity Subcommittee Recommendation 11/16/21(moved up from 11/24) • City Council Approval 12/1/21 Miracle Mile- Draft survey under revision per SHPO comments Multi-family Historic Context- Draft due in December Historic Sites Review Committee Recommendations from 11/5/21: <ul style="list-style-type: none"> • Royale Gardens II • Palmdale Elementary School • Casa del Northern McKinley Medical Center (McKinley Club) 802 N. 1 st Avenue Perpetual Conservation Easement (City Council 11/17/21) Paul Coze Mural	HP Commission
12.	Future agenda items Next scheduled meeting: December 20, 2021	HP Commission and Staff
13.	Public Comment and Communication	Public
14.	Adjournment	HP Commission

For further information, please call the Historic Preservation Office at 602-261-8699.

To request a reasonable accommodation, please contact Tamra Ingersoll at 602-534-6648, TTY: Use 7-1-1.

Si necesita asistencia o traducción en español, favor de llamar lo más pronto posible a la Oficina de Preservación Histórica de la ciudad de Phoenix al (602) 261-8699.

Reasons for Appeal

Case No. HPCA 2100117

Date of Historic Preservation Hearing: September 21, 2011

Date of Historic Preservation Commission Appeal: November 15, 2021

1. The Historic Preservation Commission erred in its decision by failing to correct errors and deficiencies in the underlying Historic Preservation Hearing Officer's decision as follows:
 - a. Both the Historic Preservation Commission and the HP Hearing Officer erred in their decisions to approve and uphold a 20-foot-high, 2-story secondary building (garage/detached living quarters) behind the 13.5-foot home at 309 W. Monte Vista Rd., in contravention of the City of Phoenix Historic Preservation Guidelines ("HP Guidelines"). The HP Guidelines require that, "Secondary new structures, such as garages and outbuildings, should be subordinate to the size and appearance of the primary historic building..." and, "New garage, even if larger than original should maintain original relationship to house."

The proposed 2-story garage/detached living quarters will be 50% higher than the main home and, thus, will not be subordinate to it. It fails to maintain the original relationship to the main house because the original garage was one story high, i.e., at or below the ridgeline of the main house – not 50% taller as the proposed new garage will be.

Not only will the proposed 20-foot-tall garage greatly exceed the height of the primary home, it will be one of the tallest structures in Willo, exceeding the height of historic bungalows and matching or exceeding the height of high-pitched Tudor Revival homes. Clearly, this structure is not subordinate to the homeowner's 13.5-foot tall, low-slung Spanish Colonial/Mission Revival style home.
- b. The Hearing Officer's ruling was in opposition to previous rulings and precedent in the Willo Historic District going back to when Willo was first listed with the National Register of Historic Places and Phoenix Historic Property Register in 1991. To our knowledge, no applications for 2-story outbuildings in Willo have been approved since Willo became listed on the Historic Register in 1991 (other than a recent application to rebuild a historic deteriorated 2-story structure that was pre-existing before Willo became a historic district.
- c. The Hearing Officer failed to consider or address massing and scale of the proposed 2-story secondary structure in her decision, which are considerations under the City of Phoenix General Design Guidelines for Historic Properties. If the 2-story garage/detached living quarters is built, approximately 40% of the mass of the buildings on the lot will be oriented vertically and concentrated on a small (576 sq. ft.) corner of the large (8,864 sq. ft.) lot behind the low-slung, horizontally oriented main home.

- d. The Hearing Officer based her decision on her personal opinion that she didn't "think" the secondary structure would be "very visible" from the street, without any evidence presented to support her conclusion, since Applicant did not provide a north elevation diagram at the HP Hearing. The north (front) elevation is the most important single piece of information in determining the visual impact of the proposed 2-story garage/detached living quarters from the street view.
- e. The Hearing Officer, after admitting that the application did not contain all necessary information, approved the application anyway, and said the Applicants could file additional documents that were material to the decision-making process, such as the north elevation diagram (street view of the proposed project) with the City of Phoenix Historic Preservation Office after the hearing, i.e., the Hearing Officer admitted she was approving the application without all the material and necessary documentation and decided that the Applicant could simply file it at some later, unspecified date.
- f. The Hearing Officer instructed the Applicant to file material documents outside of the public process, stating that no further hearing would be necessary, depriving the public from examining those documents within the public hearing process, which we believe is in violation of The City of Phoenix Code and Zoning Ordinance and circumvents due process requirements.
- g. The Hearing Officer erroneously concluded that a handful of nearby non-conforming secondary structures that predate Willo's listing as a Historic District should serve as precedent in rendering her decision. The Hearing Officer failed to provide any rationale for citing these non-conforming structures as precedent, and provided no comparison of heights, scale, and massing of the structures, nor any other basis for making this decision.
- h. The Staff Report incorrectly states that the proposed 2-story, 20-foot-high secondary structure is "as low as possible." Clearly this is not true, because the previous 1-story structure was far below 20 feet. (The home itself is only 13.5-14' high).
- i. The Staff Report cites a handful of non-conforming secondary structures as precedent for their recommendation of approval while providing no comparison of the relative height, massing, scale, etc. of those non-conforming structures with the current proposed project, and while completely ignoring the plain fact that the vast majority of secondary structures in Willo are 1-story, including, to our knowledge, every secondary structure constructed in Willo since it was designated a Historic District in 1991.
- j. The Staff Report fails to provide any analysis of how the City of Phoenix General Design Guidelines for Historic Properties apply to this application and fails to state

how the Historic Preservation guidelines support its conclusion that the application be approved. In fact, there is no mention of the City of Phoenix General Design Guidelines for Historic Properties at all in the Staff Report.

- k. Neither the Hearing Officer, nor the Staff Report offered any evidence of incorporating the Willo Conservation Plan (adopted by the Phoenix City Council in 1986) into their decision-making and ultimate recommendation. We believe the Hearing Officer's decision is massively detrimental to the Willo Conservation Plan's goal of preserving the historic character and architecture of the Willo neighborhood, because it opens the door for 2-story secondary structures in every back yard, 50% higher than the historic homes, visually overwhelming the historic view-scape and resulting in large, tall outbuildings becoming the dominant structures in Willo. This does not serve the Willo neighborhood or align with our Conservation Plan or the goals and objectives of historic preservation in Phoenix.
2. At the HP Commission Hearing on November 15, 2021, the Staff Planner gave grossly incorrect information to the HP Commission when she denied that a recent application for a 2-story structure at 133 W. Palm Lane was denied because its height exceeded that of the main home (the Willo Neighborhood provided this case as a recent example demonstrating that applications for 2-story structures are routinely denied in Willo). When a Commissioner asked the planner whether the denial of the 2-story structure at 133 W. Palm Lane was comparable to the present case, she said "No", and said it had been denied because the owner planned to remove a portion of the back of the home.

The record/staff report on the 2-story structure at 133 W. Palm Lane clearly shows otherwise – that the HP Staff's only basis for not recommending approval of the project was its height. In their report, the staff recommended approval as long as the building was "no taller than the primary ridge of the historic house..." The report does not raise any objection at all to the removal of a portion of the back of the house (which is allowable under the HP guidelines since it is not visible from the street). The staff recommendation on 133 W. Palm Lane states:

"Based on the findings above, staff recommends approval of this application with the following stipulation:

- 1) That the proposed addition be one-story and no taller than the primary ridge of the historic house, which is 18' 4" tall;
- 2) That the existing siding in the east and west-facing gables remain intact." (Staff Report HPCA 2000340, dated Dec. 17, 2020.)
(The portion at the back of the house to be removed was behind the east and west-facing gables).

The Hearing Officer who decided the 133 W. Palm Lane case denied the application because the height of the proposed 2-story structure exceeded the height of the primary home – period.

When questioned by the HP Commission, the planner either misspoke or otherwise gave a false and misleading account of why the proposed 2-story structure at 133 W. Palm Lane was denied. This false information was given after both parties had spoken at the appeal, and public comments were cut off and members of the public were “muted” at the virtual hearing, so there was no opportunity for the public to correct the staff’s comments. Thus, the HP Commission’s decision was based on incorrect information provided by the HP staff member.

3. One of the HP Commissioners who voted to deny the appeal stated the basis of her decision as “there are [2-story] carriage houses in Roosevelt”. The Roosevelt Historic District, whose homes are approximately a decade older than the oldest homes in Willo is not a comparable example. Each of Phoenix’s historic districts are unique and have always been treated as such with regard to HP guidelines applications and decisions; and Willo has its own conservation plan to preserve its unique historic character. Trying to replicate Roosevelt’s carriage houses in Willo simply defies good preservation practice because it would create a false sense of history.
4. Some of the HP Commissioners based their conclusions on the staff report’s curious and unsupported contention that the “Broadmoor” subdivision within Willo should be treated separately from the rest of Willo and allowed to have 2-story outbuildings because the homes were more “upscale”. The staff member based this on marketing ads for homes when the “Broadmoor” subdivision, whose construction began some one hundred years ago. Of the dozens of ads presented by staff for the 154-home subdivision, only one referenced a 2-story outbuilding. Of the 154 homes in the “Broadmoor” subdivision, only 4 of the 5 mentioned in the Staff Report have a 2-story outbuilding with a height exceeding the roofline of the main home, and some of the others do not appear to be 20’ tall. In any case, they all predate Willo’s listing as a historic district and the HP guidelines that are now in effect require secondary buildings to be subordinate). Non-conforming buildings are not used as precedent when new structures are built. Instead of focusing on the vast and undeniable pattern in Willo, which has over 900 historic one-story homes with one-story garages, some of the Commissioners chose to focus on a handful of homes with old 2-story outbuildings and chose to make these exceptions the new rule.
5. Opening the door for 2-story outbuildings in the old “Broadmoor” subdivision not only defies logic because its historic structures (homes and garages) are nearly all one story, but it would also create an underclass of Willo residents whose homes are not in the Broadmoor boundary and whose applications for 2-story outbuildings would thus be denied. The staff said during the appeal that they would not approve applications for 2-story garages for ranch houses in “the north end of Willo”. Parsing the Willo Historic District (which was listed with the National Register all at once as a single historic district) into separate sections with different rules for each, is not only unsupportable based on the historic evidence and best practice, but we believe it is likely to be legally indefensible if the City tries to create different property entitlements within Willo.

For the reasons stated above, we believe the Hearing Officer's decision and the HP Commission's upholding of that decision are fatally flawed. THEREFORE, the Willo Neighborhood Association respectfully requests that this appeal be granted, and the HP Commission's decision be overturned.