



City of Phoenix
PLANNING & DEVELOPMENT DEPARTMENT
HISTORIC PRESERVATION OFFICE

Staff Report: Z-32-20-6
August 10, 2020

INTRODUCTION

Z-32-20-6 is a request to establish Historic Preservation (HP) overlay zoning for the property located at 333 West Gardenia Drive known historically as the Ozell Trask Residence. Maps and photos of the subject property are attached.

STAFF RECOMMENDATION

Staff recommends that rezoning request Z-32-20-6 be approved.

BACKGROUND

In April of 2020, the City of Phoenix Historic Preservation Office received a request from Douglas and Kate Thoene, owners of 333 West Gardenia Drive, for HP overlay zoning for the property. At the Thoenes' request, the HP Commission voted to initiate HP zoning for the subject property on May 18, 2020.

BACKGROUND HISTORY

Ozell Trask was born to Isaac and Nina Trask in Wakita, Oklahoma in 1909. He received an A.B. from Washburn College in Kansas in 1931 and an LLB from Harvard Law School in 1934. He initially practiced law in Kansas City before moving to Arizona in 1936 seeking health benefits from the arid climate as he was suffering from tuberculosis. He met his wife Barbara Draper in a sanitarium in Tucson and the couple married in 1939 (*Arizona Daily Star* Oct. 3, 1939:14). The couple moved to Phoenix and Trask was admitted the state bar of Arizona in 1940 (*Arizona Republic* Mar. 7, 1940:3). Trask practiced independently before establishing a law firm with Irving Jennings, Charles Strouss, and Riney Salmon in Phoenix in 1942. Originally known as Jennings, Strouss, Salmon and Trask, the firm continues to operate today as Jennings Strouss (*Arizona Republic* Jun 22, 1969:53).

Trask became a prominent member in the local legal community, serving as a hearing officer for the Maricopa County Bar Association in 1942 and becoming secretary of the County Bar Association in 1943. By 1948, he was serving on the Committee of Examinations and Admissions for the State Bar of Arizona, a position he held for 11 years (United States 1980). In the 1950s Trask also served on the board of the Young Men's Christian Association (YMCA) and became the President of the Arizona Division

of the American Cancer Society (*Arizona Republic* Jan. 18, 1956:22). In fact, Trask helped write a bill to establish a central cancer registry within the State of Arizona in 1959 for statistical research. House Bill 265 did not, however, gain traction in the State Legislature and it would take until 1981 for such a state registry to be established (*Arizona Republic* March 13, 1959:6).

While his legal practice appears to have predominantly focused on local cases from the 1940s through the 1950s, he entered the national stage in 1960 taking a federal case in which he represented Arizona ranchers in a land dispute with the San Carlos Apache Tribe. Trask presented an argument to an agent for the Secretary of the Interior on behalf of the continued interest of ranchers in keeping grazing leases on approximately 100,000 acres (of a broader 232,000 acres) of land adjacent to the San Carlos Indian Reservation which had originally been part of the reservation but for which the federal government set aside for mineral entry in 1896 (*Arizona Republic* Feb 11, 1960:32). The following month Trask went to Washington D.C. to lobby Arizona's congressional representatives in advance of the decision to be made by the Interior Department (*Arizona Daily Star* Mar 9, 1960:2A). In 1963 the Secretary of the Interior returned the mineral rights for this contested land to San Carlos Apache Tribe and the cattlemen filed an injunction. Trask represented cattle ranchers as plaintiffs in a case against Secretary of the Interior in 1963 (*Bowman v. Udall*). The case was argued in the US District Court for the District of Columbia in 1965 and resulted in a finding in favor of the Secretary of the Interior (*Arizona Republic* Jun 17, 1965:18A).

In 1965, Ozell Trask was appointed as chief legal counsel for the Interstate Stream Commission. The State of Arizona had obtained a guaranteed Colorado River water allotment in a Supreme Court decision two years earlier (*Arizona v. California*) and the Stream Commission sought federal legislation to authorize construction of a canal system that would deliver water from the Colorado River to Central Arizona (the Central Arizona Project) (Mann 1963; Johnson 1977).

Trask worked on the task force studying and drafting legislation for the Lower Colorado River Project which was to include the Central Arizona Project. Arizona's congressional delegation for the legislation included Senators Carl Hayden and Paul Fannin and Representatives John Rhodes, Sam Steiger, and Morris Udall. Trask simultaneously worked on an alternative state water and power plan in which Arizona would finance the development of the project independently if congressional authorization/funding could not be secured. The federal legislation required compromise from representatives of the seven Colorado River Basin states, as well as dam and power source reconfiguration, and ultimately passed and was signed into law in 1968. The landmark Central Arizona Project authorized as part of the legislation was the culmination of decades of legal water rights challenges by Arizona leaders to access what they considered to be the state's rightful share of the Colorado River (Johnson 1977).

Ozell Trask's work on the Interstate Stream Commission assisting with the Lower Colorado River Project clearly gained the admiration of Arizona Senator Paul Fannin who recommended his nomination to the U.S. Ninth Circuit Court of Appeals to President Richard Nixon in June of 1969. At this time Trask was still practicing at Jennings, Strouss, Salmon and Trask, which had become one of the most prominent law firms in Arizona. The U.S. Senate confirmed Trask's appointment in September of 1969, and he became the first Phoenician, and fourth Arizonan, appointed to the Ninth Circuit Court of Appeals, the second highest federal judiciary level in the country (*Arizona Republic* Jun 22, 1969:53).

As noted, Trask and his wife had moved to Phoenix in 1940 and, while establishing his career, purchased a 1,200 square foot home in what is now the Del Norte Historic District at 1606 West Wilshire Drive. They continued to live in this residence through 1950 and then purchased their next home at 1809 North 11th Avenue, a 1,700 square foot residence in what would become the Encanto-Palmcroft Historic District. In 1959, the Trasks purchased their home at 333 West Gardenia Drive. The considerably larger, 2,500 square foot home, with attached 840 square foot garage and storage, in the North Central corridor reflected Trask's growing career success. The Trasks remained at this property as he gained a national profile through legal and legislative efforts culminating in his appointment to the Ninth Circuit. The Ninth Circuit Court is based in San Francisco. While the Trasks decided to maintain a residence in Phoenix, it is clear that they sought to downsize as they sold their home at 333 West Gardenia Drive in 1970 and purchased Apartment 6 at 6125 North Central Avenue.

PROPERTY DESCRIPTION

While there is not an original building permit on file for the home at 333 West Gardenia Drive, it first appears in city directories in 1956 as the residence of Henry P. Stern. The single-story house is designed in the California Ranch style, characterized by a low-slung form and walls with board and batten siding above a brick wainscot on the front façade, as well as a low-pitched roof sheathed with wood shakes. The secondary façades are constructed of painted 8" concrete block. The house is built on a concrete pad and stem wall foundation. It has an elongated "L" plan with a two-car garage. The roof is comprised of intersecting, modified hip forms with exposed, curved-end rafter tails. The roof ridge drops in height at the west end and is adorned with a cupola. An entry porch now has a simple wood porch post but was originally supported by a filigree painted metal post, often used in 1950s Ranches. The house also had steel casement windows, that included diamond-shaped lites on the front façade, another characteristic of the California Ranch. Most of these original steel casement windows have been replaced with new fixed and casement windows on the primary façade and fixed/sliding windows on the secondary façades.

ELIGIBILITY CRITERIA

The eligibility criteria for HP overlay zoning and listing on the PHPR are set forth in Section 807.D of the City of Phoenix Zoning Ordinance. To qualify, a property must demonstrate significance in local, regional, state, or national history, architecture, archaeology, engineering, or culture, according to one or more of the following criteria:

- A. The property is associated with the events that have made a significant contribution to the broad pattern of our history;
- B. The property is associated with the lives of persons significant in our past;
- C. The property embodies the distinctive characteristics of a type, period, or method of construction, represents the work of a master, possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
- D. The property has yielded or may likely yield information integral to the understanding of our prehistory or history.

In addition to the significance requirement, the property must also be at least 50 years old or have achieved significance within the past 50 years if it is of exceptional importance. The property must also possess sufficient integrity of location, design, setting, materials, workmanship, feeling, and association to convey its significance.

EVALUATION

In this case, the property meets the age requirement as it was constructed by 1956. The property also meets the significance requirements under Criterion B for its association with Ozell Trask, prominent Phoenix attorney who served as Chief Counsel during the negotiations for the federal legislation authorizing the Central Arizona Project and who was then appointed to the U.S. Ninth Circuit Court of Appeals by President Richard Nixon.

The property, where he lived from 1959 to 1970, best represents the transition from his work as a local attorney to legal work at the federal level with both trial and legislative efforts which culminated in his appointment to the U.S. Ninth Circuit Court of Appeals. The property also meets the minimum requirements for historic integrity, as it retains its original location, design, setting, workmanship, feeling, and association with modest impact to integrity of materials with the replacement of the windows and porch posts.

BOUNDARY JUSTIFICATION

Section 807.E states that, when applying the evaluation criteria in Section 807.D, the boundaries of a historic district should be drawn as carefully as possible to ensure that:

1. The district contains documented historic, architectural, archaeological or natural resources;
2. The district boundaries coincide with documented historic boundaries such as early roadways, canals, subdivision plats or property lines;
3. Other district boundaries coincide with logical physical or manmade features and reflect recognized neighborhood or area boundaries; and
4. Other non-historic resources or vacant land is included where necessary to create appropriate boundaries to assist in meeting the criteria in Section 807.D.

The proposed HP zoning boundary includes Lot 82 of the Pyle Estates subdivision in its entirety, where the subject property is located. It also includes the adjacent street right of way, which is customary for rezoning applications.

CONCLUSION

The rezoning request Z-32-20-6 to establish Historic Preservation (HP) overlay zoning for the subject property should be approved for the following reasons:

1. The property meets the significance, age, and integrity requirements for HP overlay zoning set forth in Section 807.D of the Zoning Ordinance; and
2. The proposed boundaries meet the eligibility criteria outlined in Section 807.E.

Writer

H. Ruter

8/10/2020

Team Leader

M. Dodds

Attachments:

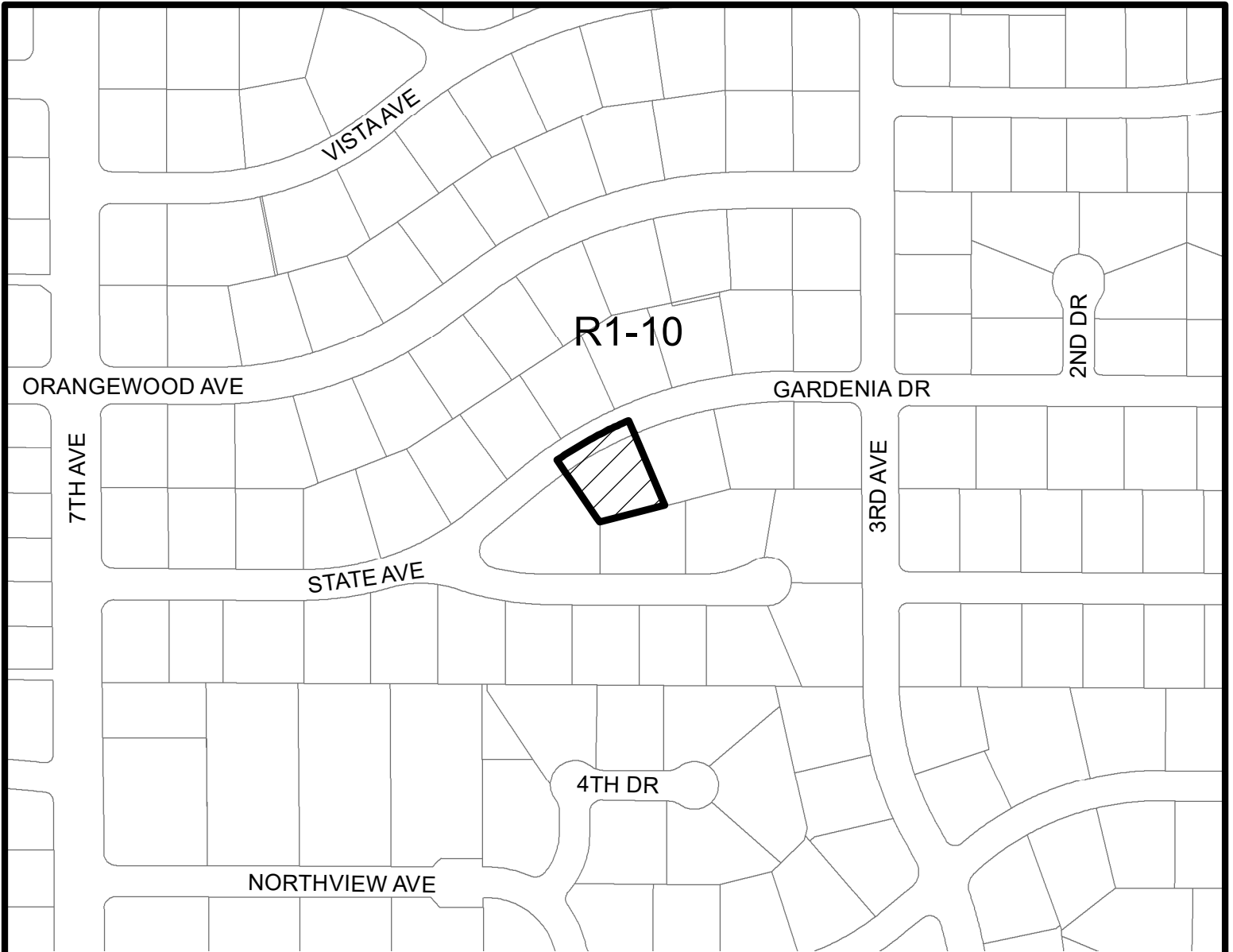
Sketch Map (1 page)

Aerial (1 page)

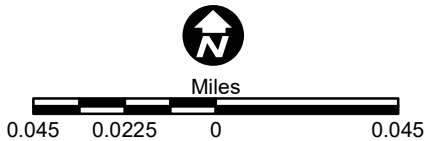
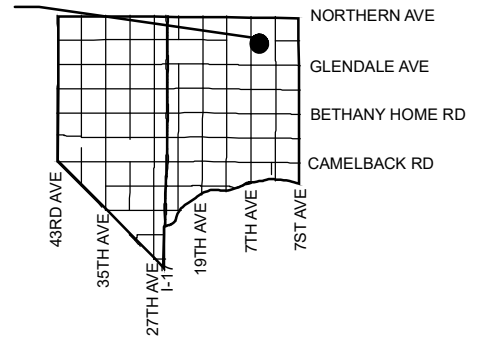
Photos (1 page)

Articles (4 pages)

Correspondence (2 pages)



Z-32-20



ALAHAMBRA VILLAGE
CITY COUNCIL DISTRICT: 6



APPLICANT'S NAME: City of Phoenix Historic Preservation Commission

APPLICATION NO. Z-32-20

DATE: 6/22/2020
REVISION DATES:

GROSS AREA INCLUDING 1/2 STREET
AND ALLEY DEDICATION IS APPROX.

0.38 Acres

AERIAL PHOTO &
QUARTER SEC. NO.

QS 23-27

ZONING MAP

I-8

REQUESTED CHANGE:

FROM: R1-10 (0.38 a.c.)

TO: R1-10 HP (0.38 a.c.)

MULTIPLES PERMITTED

R1-10

R1-10 HP

CONVENTIONAL OPTION

1

1

*** UNITS P.R.D. OPTION**

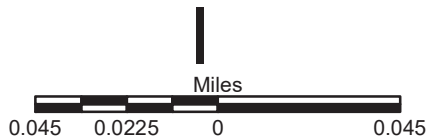
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* Maximum Units Allowed with P.R.D. Bonus



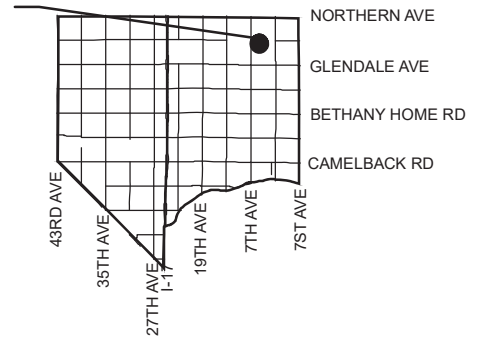
Maricopa County Assessor's



ALAHAMBRA VILLAGE
CITY COUNCIL DISTRICT: 6



Z-32-20



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CONVENTIONAL OPTION

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* UNITS P.R.D. OPTION

1

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* Maximum Units Allowed with P.R.D. Bonus

Z-032-20-6
Ozell Trask Residence
333 W Gardenia Drive



Photo 1. 333 W Gardenia Dr, looking southwest



Photo 2. 333 W Gardenia Dr, looking south



Photo 3. 333 W Gardenia Dr, looking southeast.



Photo 4. 333 W Gardenia Dr, looking southeast.



Phoenix lawyer Ozell M. Trask prepares for a dove hunting trip

New federal judge from Arizona calls himself a 'constructionist'

By JESUS A. BARKER

In 1936, a young lawyer from Kansas City was brought to Arizona on a stretcher in a last-ditch effort to save him from the ravages of tuberculosis.

On Sept. 29, this same lawyer, a partner in Arizona's largest law firm, will embark on a new career as the third Arizonan appointed to the U.S. Circuit Court of Appeals.

President Nixon's nomination of Ozell M. Trask to the second highest court in the land has been warmly received by the four federal judges now sitting in the U.S. District Court in Arizona and by lawyers around the state.

In many respects, the appointment of Trask is in keeping with Nixon's two appointments to the U.S. Supreme Court. Trask thinks of himself as a conservative and "constructionist," one who doesn't believe in interpreting the Constitution in the pursuit of social goals. Chief Justice Warren E. Burger and Supreme Court nominee Clement F. Haynsworth Jr. are described as strict interpreters of the Constitution.

Senate to confirm Trask's appointment, mainly because Sen. Hiram L. Fong, R-Hawaii, wanted one of the three new appointments to the 9th Circuit Court to go to a Hawaiian.

While the confirmation battle was going on in the Senate Judiciary Committee, Fong was quoted in the Wall Street Journal as saying he opposed Trask's nomination because Trask was "too conservative."

Trask said, "I guess I could be labeled a conservative, but that should make little difference. My job as a judge would consist of following the law as written by Congress and interpreted by the Supreme Court." He was wary of expressing any views on judicial subjects and Supreme Court decisions but gave these views:

—Law and order: "Laws were made to be obeyed. If a law is broken, and a jury convicts the suspect, you should not overturn that conviction unless the trial judge erred in his instructions."

—Capital punishment: "I think that

It took nearly two months for the

Continued On Page B-4

4-B The Arizona Republic Phoenix, Sunday, Sept. 21, 1969

More
about

New federal judge from Arizona

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there are certain conditions in which the death penalty is useful. It does have a certain deterring effect. The effect would be the same in some cases if the convict sentenced to life spend his entire life in prison. It is bad to have criminals running loose, when they should be in prison."

—Strikes by public employees: "I don't think any public servant performing a vital function to the wellbeing of the community should have the right to strike. This would include such employees as firemen, policemen and so forth."

—Militant groups: "I think they are subject to the same rights and limitations as anyone else. Civil disobedience should not be condoned. This is the reason some forms of public assembly are unlawful."

—Supreme Court: "Although it might be improper to comment on specific decisions, I can say the Supreme Court has made several decisions I would have decided differently. But as to the view the court has exceeded its authority, I can't quite buy it, since the court is the only branch of government that has the

constitutional right to set its own prerogatives on what it will decide and what it won't."

When Trask takes the oath in Phoenix on Sept. 29, he will join Tucsonan Richard A. Chambers on the Circuit Court bench. Chambers is the chief judge.

Trask, 60, is still active in the law firm of Jennings, Strouss, Salmon & Trask. He is normally at his desk by 8 a.m. and rarely leaves it before 5:30 p.m.

His Hobbies are hunting, fishing and golf.

Trask has been active in Republican circles, mainly as a fund raiser. He has never run for public office but was chairman of the Maricopa County Citizens for Eisenhower Committee in 1956.

For 11 years Trask headed the State Bar of Arizona's committee on examinations, reviewing the applications of more than 1,000 lawyers who wanted to practice in the state.

He also took an active part in the task force that pushed Congress into finally approving the Central Arizona Project. Trask also is a former president of the Phoenix Chamber of Commerce.

In 1939, Trask married a fellow patient in the Tucson Sanatorium. He and his wife, Barbara, have two daughters, Mrs. Thomas C. Follett of Alexandria, La., and Mrs. Rodney Burton of La Jolla, Calif. The Trasks live at 333 W. Gardenia.

Although the Circuit Court sits in San Francisco, Trask plans to commute most of the time. He will maintain his Phoenix residence, and chambers are being prepared for him in the federal building.

Trask does not foresee many problems when he assumes the bench, although he has never served as a judge before.

"It will be mainly a matter of hearing both arguments, instead of preparing just one side," he said. "In my work, I have argued cases before the Circuit Court as well as Arizona Supreme Court and the Arizona Court of Appeals. So my main problem will be one of learning and getting accustomed to the routine."

Trask will be sworn in by U.S. District Court Judge James A. Walsh of Tucson, the senior federal judge in Arizona.

Advertisement

Gratifying Choice

Confirmation of Phoenix lawyer Ozell M. Trask as a judge of the Ninth U.S. Circuit Court of Appeals, where he will join Chief Judge Richard A. Chambers of Tucson, brings to two the number of Arizonans on the 13-judge court which sits in San Francisco.

The choice of Trask is gratifying to our state pride. But our pleasure with his selection goes far beyond that.

For Ozell Trask will no doubt be as much a credit to the federal court as he has been to the legal profession in his adopted state. And that is considerable.

Since he began practicing law in Phoenix in 1940, four years after he arrived in Arizona on a stretcher ill with tuberculosis which kept him in a Tucson TB sanatorium for three years, Trask has proved himself to be an uncommon lawyer and an uncommon civic leader.

He worked long and hard to upgrade the standards of the legal profession. He was chief counsel to the Arizona Interstate Stream Commission. He was a leading advocate of the Central Arizona Project. He was president of the Phoenix Chamber of Commerce. He was on the board of the Phoenix Art Museum and served three terms as president of the Metropolitan YMCA. And in all that time he was a good husband and father, and a good friend to all who sought his advice.

Dick Chambers has won an enviable reputation for his performance on the circuit court. We are confident his fellow Arizonan, Ozell Trask, will win a similar reputation.

U.S. appellate judge Ozell M. Trask dies

U.S. appellate Judge Ozell M. Trask, who died Saturday at age 74, was "an indomitable spirit" who "loved the law and his work," according to colleagues.

"He was a hard-working judge, an indomitable spirit who kept on going right until the end," Chief U.S. District Judge Carl Mueke said. Trask died at St. Joseph's Hospital and Medical Center after a brief illness.

Mueke said that as U.S. attorney, Trask was "a formidable, industrious and well-prepared opponent... qualities he continued in practice on the bench."

Trask was appointed to the Ninth Circuit Court of Appeals on Sept. 12, 1969.

He served on the court until 1980, when he voluntarily took senior status, but he continued to work full time.

"He absolutely loved the law and his work," said Judge Mary Schroeder, who had served nearly five years on the appellate court with him. "He was a fine judge and a very caring person."

Before becoming a judge in 1969, he served as chief counsel to the Arizona Interstate Stream Commission and was a member of an interstate task force whose work led to congressional enactment of the Colorado River Basin Project Act in September 1968.

Trask, a native of Wakita, Okla., received a law degree from Harvard Law School in 1934 and practiced law in Kansas and Missouri for two years before moving to Arizona for health reasons. He was admitted to the Arizona bar in 1940.

For 11 years, he served on the Arizona Board of Bar Examiners and was chair-

man in 1959, his last year on the board. He also served on the editorial board of the *Arizona Law Journal*.

Trask was a past president of the Phoenix Chamber of Commerce. He also had been president of the American Cancer Society's state board and a member of the national board. He served on the boards of the Phoenix Art Museum, the Phoenix Y.M.C.A. and the Arizona Club and was a member of the American Judicature Society.

Survivors include his daughters, Melinda Follett and Deborah Aufdenspring; a sister; and three grandchildren. His wife, Barbara, died Jan. 6.

Memorial services will be held at 11 a.m. Wednesday at A.L. Moore & Sons, 333 W. Adams. Contributions to the American Cancer Society are suggested.



Ozell M. Trask
He "absolutely loved the law."

Dr and Mrs Sam Lidén
548 W State Avenue
Phoenix, Az. 85021

Historical Preservation Office
200 W Washington
3rd floor
Phoenix Az 85003

August 4, 2020

Re: Re-zoning from R1-10 to R!-10HP
case Z-32-20-6

To whom it may concern:

We strongly oppose the re-zoning of the property at 333 W Gardenia Drive to be "Historically Preserved". The property is located in Pyle Estates.

Pyle Estates was established in 1950/51 when it was outside city limits. Over the past 70 years it has been a well preserved and well kept neighborhood and really has not lost its charming character. Residents keep their homes and yards in pristine conditions.

Over the years, most of the homes have been remodeled to a greater or lesser extent and some homes have even been demolished and re-built.

The before-mentioned home is no exception. It was built in 1954 and has changed ownership several times. The present owners have done some extensive re-modeling during the last two years and now attempt to get "Historical Preservation" status.

At my inquiry I was told that it qualifies because judge Ozell Miller Trask lived in it for a few years in the 1960's. Judge Trask had a brilliant career and was finally appointed to the US Court of Appeals for the Ninth Circuit (a political appointment) by Richard Nixon and left Phoenix in 1969.

We find it difficult to understand that the qualification should depend on somebody who lived for a short time rather than for its historic architectural value. Over the years there were many people who lived or live in Pyle Estates that were outstanding citizens in the city of Phoenix.

The home has lost its "ranch style" appearance long ago: there is no more a front covered porch, instead it has a patio. The windows have all been replaced, it has a garage rather than the traditional car port and the house color has been changed.

I was told that re-zoning would not affect their tax bracket, but I checked with the Maricopa County Assessors office and was told that there would be a tax benefit immediately.



We don't know or suggest that this is the reason for the application, but we seriously hope that you will evaluate the architectural view of the house to justify the change to "historical preservation"

Cordially,



Dr. Sam P Lidén and Gisela Lidén

Pyle Estate Residents Opposed to the Rezoning

ADDRESS	SIGNATURE	DATE
540 W. STATE AVE		8-4-20
540 W. State Ave	Julie Hentman	8-4-20
309 W STATE AVE	Maria S. S. S. S. S.	8-4-20
314 W. Orangewood Ave	Carol Keyt	8-4-20
537 W. STATE AVE		8/4/20
338 West Gardenia	Barbara Danielson	8/5/20
304 W. GARDENIA DR	Michael Hole	8/8/20
320 W. GARDENIA DR.	Annun Annun	8/8/20