



City of Pomona Planning Division
PLANNING APPLICATION FORM

505 S. Garey Avenue, Pomona, CA 91766
Planning Counter Hours: Monday through Thursday 8 AM to 5 PM
City Hall Hours: Monday through Thursday 7:30 AM to 6 PM
(909) 620 - 2191

OFFICE USE ONLY

CASE NO: _____

DATE RECEIVED: _____

RECEIVED BY: _____

MAJOR PROJECTS

- ☒ Appeal *
- ☐ Change of Zone
- ☐ Conditional Use Permit
- ☐ Development Plan, Conceptual
- ☐ Development Plan, Final
- ☐ Development Plan Review (PCSP Area)
- ☐ Environmental Assessment
- ☐ General Plan Amendment
- ☐ General Plan Conformity
- ☐ Oak Tree Permit, Major*
- ☐ Public Use Permit
- ☐ Sign Permit Variance
- ☐ Site Development Permit (DPSP Area), Major
- ☐ Specific Plan Amendment
- ☐ Tentative Parcel Map
- ☐ Tentative Tract Map

- ☐ Time Extension
- ☐ Variance
- ☐ Wireless Communication Permit, Major

MINOR PROJECTS

- ☐ Determination of Similarity
- ☐ Development Review (Pre-Application)
- ☐ Master Sign Program
- ☐ Minor Deviation Variance
- ☐ Outdoor Dining Permit
- ☐ Sign Permit
- ☐ Site Development Permit (DPSP Area), Minor
- ☐ Wireless Communication Permit, Administrative
- ☐ Wireless Communication Permit, Minor
- ☐ Other: _____

* See Planning Division Staff for additional application Requirements.

PROJECT INFORMATION

Project Address: 961 East Phillips Blvd., Pomona, California

Assessor's Parcel #(s): 8333-031-013

Zoning (Existing): R-2

General Plan Designation: Residential Neighborhood

Land Use (Existing): Residential

PROJECT INFORMATION (CONT.)

Project Description: Application for a Certificate of Appropriateness to
demolish four pre-1945 structures having no
historic significance or contribution
(MAJCOA 11397-2019)
(See the attached)

CONTACT INFORMATION

APPLICANT	Name: Yongzhi Wan
	Phone/Email: (617) 642-6456 / lauraliu2020@gmail.com
	Address: 360 San Palo Place, Pasadena, CA 91107
PROPERTY OWNER	Name: Yongzhi Wan for WZ Phillips, LLC
	Phone/Email: (617) 642-6456 / lauraliu2020@gmail.com
	Address: 360 San Palo Place, Pasadena, CA 91107

I hereby certify that the foregoing statements and information are true and that any submitted material, statements or plan designs are correct to the best of my knowledge.

Yongzhi Wan
 Applicant's Signature

1/29/2020
 Date

All applications require a property owner's affidavit. Please see the Planning Division Application Matrix for Notary requirements.

PROPERTY OWNER'S AFFIDAVIT

New York
 STATE OF CALIFORNIA)
New York)SS
 COUNTY OF LOS ANGELES)

I/WE Yongzhi Wan BEING DULY SWORN, DEPOSE AND SAY, THAT I/WE AM/ARE THE OWNER(S) OF PROPERTY INVOLVED IN THIS PETITION, AND THAT THE FOREGOING STATEMENTS AND ANSWERS HEREIN CONTAINED AND THE INFORMATION HERewith SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT TO THE BEST OF KNOWLEDGE AND BELIEF.

SWORN TO BEFORE ME THIS 29th SIGNED: Ch. Stanislaus

DAY OF January, 2020

ADDRESS: 71 Broadway NY, NY 10006

CITY: New York

TELEPHONE: 646-449 9936

NOTARY PUBLIC

ONIKA STANISLAUS
 Notary Public - State of New York
 No. 01ST6389594
 Qualified in Kings County
 My Commission Expires April 1, 2023

WZ PHILLIPS , LLC
(AN ENTITY OWNED BY YONGZHI WAN FAMILY)
APPEAL OF DECISION OF
POMONA HISTORICAL PRESERVATION COMMISSION
IN THE MATTER OF THE DENIAL OF A
CERTIFICATE OF APPROPRIATENESS
(MAJCOA 11397-2019)

I. INTRODUCTION

This filing appeals the decision of the Historic Preservation Commission to deny the Applicant's application for a Certificate of Appropriateness for the demolition of four pre-1945 structures on Applicant's privately-owned parcel; such structures having no historic significance and not being in an historic district. In making its determination, the Historic Preservation Commission did not follow the objective requirements for a finding of historic significance, was guided by matters unrelated to the determination of historic significance and, through abuse of power, discriminated against Applicant.

This filing incorporates by reference the Planning Division staff reports of April 3, 2019, June 5, 2019, and January 15, 2020 (and appendices and photographs related thereto), the Sapphos Environmental peer review of May 14, 2019 and its revised review of November 27, 2019 (and appendices and photographs related thereto), and the presentations, minutes, transcripts, and recordings of the hearings of the Historic Preservation Commission, and exchanges of correspondence between the Applicant and Planning Division staff or the Commissioners.

II. BACKGROUND

A. THE PROPERTY

1. The property is a 38,777 s.f. parcel of land fronting East Phillips Blvd. between South Towne Avenue and South San Antonio Avenue, and across the street from Alcott Elementary School and relatively modern apartment buildings; to the east of the property is a church. The property is identified as 961 East Phillips Blvd., Pomona, California / APN 8333-031-013 on the Los Angeles County Recorder/Assessor rolls and is zoned R-2. The structure addressed as 961 East Phillips Blvd. is original to the property and predates 1945. Three other structures, each also predating 1945, were moved to the property in 1956 and substantially modified at that time; although not on separate parcels, those structures are identified as, respectively 949, 953 and 955 East Phillips Blvd. None of the structures is a designated historical resource, nor is the property in an historical district designated by the City Counsel.
2. The property was purchased by the Applicant in September 2018. At the time of purchase, each of the structures was in poor, generally dilapidated, condition with holes in the exterior walls, old electrical installations, lead pipes and cast sewer piping. Each of the structures was occupied by tenants of the prior owner at below-market rental rates due to the poor condition. The Applicant faced significant repairs to the structures; and made such repairs, including stopping sewage leakage under the structures. Of the four tenants, one moved in Spring 2019, two others were relocated to much newer and modern living space with the financial assistance

of the Applicant covering first month's rent, security deposit and a relocation payment, and one – having failed to pay rent for a substantial period of time – was removed through an unlawful detainer action. The property is currently fenced with chain link fencing to protect it from vandalism and, especially being across the street from an elementary school, to protect the public from potentially dangerous conditions. Nonetheless, and in spite of the City of Pomona having a robust homeless shelter program, the Applicant has contacted the Pomona Police Department on several occasions to remove up to 20 homeless persons from the property who have knocked the barrier fencing down and occupied the property.

3. The Applicant has an intent to develop twelve housing apartment units on the property; this aiding in relieving Pomona's housing needs allocation under the existing Regional Housing Needs Assessment (RHNA) and providing such housing within 0.2 mile from the Towne Corridor as projected in the Pomona Corridors Specific Plan.

B. HISTORIC PRESERVATION COMMISSION

1. Per City Council determination, the guiding mission of the Historic Preservation Commission is "The protection, appreciation and preservation of the historic and cultural resources of Pomona shall be the guiding mission and fundamental purpose of the Historic Preservation Commission. The Commission shall work in partnership with property owners and residents, the business sector and the community at large to retain and protect those historic and cultural resources which will preserve and enhance Pomona's unique built environment."
2. Historic preservation is not merely a local matter. Many of the considerations of what constitutes an historic resource is embodied in criteria which is used to designate structures or places for listing on the National Register of Historic Places, or designation as a California Historic Landmark, or designation as a historical landmark on the Pomona Historical Register. Aspects of the California Environmental Quality Act are also applicable to the characterization of a property or structure as historic.
3. The City Council's guidance to the Historic Preservation Commission with respect to the protection and preservation of historic and cultural resources in the City of Pomona is embodied in the *Historic Preservation Ordinance* (Pomona City Code Section .5809-13). This ordinance takes into account, and mimics, many of the criteria used by the National Register of Historic Places, the California Historic Resources Commission and the California Environmental Quality Act. Design Guidelines published July 19, 1999 contribute to the implementation of the ordinance by specifically addressing the architectural character of Pomona's historic landmarks and districts and "provide information... regarding appropriate alterations to historic properties".
4. The *Historic Preservation Ordinance* makes clear that "demolition" of a designated historic landmark is a "major alteration" requiring a certificate of appropriateness. Section .5809-13.F.8 of the *Historic Preservation Ordinance* provides, in pertinent part,

Special Considerations Regarding Demolition of Pre-1945 Nondesignated Structures.

- a. All applications for demolition of structures built prior to 1945 submitted to the building division shall be considered by the Pomona historic preservation commission for a certificate of appropriateness even if the structure is not a designated historic landmark...

- c. In making such a determination the commission shall first consider if the property would likely meet the criteria used in historic landmark designation thus deeming it of historical significance....

As such, the Historical Preservation Commission is to review a certificate of appropriateness for demolition of a pre-1945 structure by first determining whether the structure would likely meet the criteria for designation as an historic landmark.

5. Pursuant to Section .5809-13.D of the *Historic Preservation Ordinance*, as pertinent,

“an improvement,... may be designated an historic landmark... if *the building*... are fifty (50) or more years old... and *it* meets one or more of the following criteria [Emphasis added; noting that the criteria apply to a building, not a portion thereof (“*It*” in each of the below provisions relating to the building)]:

1. It exemplifies or reflects special elements of the city of Pomona's cultural, social, economic, political, aesthetic, engineering, architectural, or natural history;
2. It is identified with persons or events significant in local, state, or national history;
3. It embodies distinctive characteristics of a style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship;
4. It contributes to the significance of an historic area, being a geographically definable area possessing a concentration of historic or scenic properties or thematically related grouping of properties which contribute to each other and are unified aesthetically by plan or physical development;
5. It is the work of a notable builder, designer, landscape designer or architect;
6. It has a unique location or singular physical characteristics or is a view or vista representing an established and familiar visual feature of a neighborhood, community, or the city of Pomona;
7. It embodies elements of architectural design, detail, materials, or craftsmanship that represent a significant structural or architectural achievement or innovation;
8. It is similar to other distinctive properties, sites, areas, or objects based on an historic, cultural, or architectural motif;
9. It reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning;
10. It is one of the few remaining examples in the city of Pomona, region, state, or nation possessing distinguishing characteristics of an architectural or historical type or specimen.

6. The City's Design Guidelines published July 19, 1999 makes clear that the architectural character of Pomona's historic landmarks and districts is maintained by addressing the exterior of a privately-owned building or structure; stating "All *exterior alterations* are covered by the guidelines." [emphasis added] while noting that interior features can be considered in the preservation of *public* buildings and structures. (The rationale for this is patently clear – the public can go into public buildings and structures, but can only (in general) view privately-owned buildings and structures from the outside and surrounds. The *Historic Preservation Ordinance* supports the review objective as well; stating at Section .5809-13.B.3 in pertinent part, "Certificate of appropriateness' is a certificate issued... to make a decision on any proposed *exterior* alteration, restoration, rehabilitation, construction, removal, relocation or demolition, in whole or in part, of or to a designated resource, designated site, or to a building or structure within a historic district." [Emphasis added]

As such, the criteria of Section .5809-13.D of the *Historic Preservation Ordinance* to be considered with respect to a determination of the historical significance of a privately-owned structure are to be applied with respect to the external characteristics of the structure.

C. APPLICATION PROCEEDINGS

1. The Applicant filed its application for a Certificate of Appropriateness on January 30, 2019 (MAJCOA 11397-2019)
2. Planning Division staff reviewed the application, the property and the requirements of *Historic Preservation Ordinance* Section .5809-13.D, and deemed that none of the four structures on the property met any requirement for historical significance. Staff recommended that the Certificate of Appropriateness be approved. Among the staff's findings, notable were the following:
 - a. 949 E. Phillips Blvd. was identified in the City's Historic Resources Inventory conducted by Diane Marsh in June 1993. It was described as being in "poor" condition (moderate for additions and alterations). It was found to be altered too much to be contributing to historic streetscape, and was not identified as eligible for local landmark status, or listing in either State or Federal historic registries.
 - b. 961 E. Phillips Blvd. was also identified in the City's Historic Resources Inventory of 1993; was also found to be in "poor" condition, and was deemed to not possess architectural character; and was not identified as eligible for historic landmark status.
 - c. 953 E. Phillips Blvd. was not identified in the City's Historic Resources Inventory of 1993; and was not identified as eligible for historic landmark status
 - d. 955 E. Phillips Blvd. was also not identified in the City's Historic Resources Inventory of 1993; and was not identified as eligible for historic landmark status.
 - e. In going through the requirements of *Historic Preservation Ordinance* Section .5809-13.D, Planning Division staff found nothing unique, historic, distinguishing, or significant.
3. In public hearing April 3, 2019, the Historic Preservation Commission challenged the staff recommendations and Applicant testimony before continuing the item until the regular hearing on June 5, 2019. The Commission questions focused on interior features of the structures

before directing the staff to return at that time with a recommendation to deny the application for a Certificate of Appropriateness.

4. Applicant engaged Sapphos Environmental, Inc. and, in particular, its architectural historian, Ms. Carrie Chasteen, to conduct an independent peer review of the property. Ms. Chasteen has over 17 years of experience in cultural resource management and meets the US Secretary of the Interior's Professional Qualifications Standards in the fields of History and Architectural History. Ms. Chasteen's peer review, which was provided to the Historical Preservation Commission and Planning Division staff, reviewed the criteria of the Federal National Register of Historic Places, the criteria of the California Environmental Quality Act and California Register of Historical Resources, and Section .5809-13.D of the *Historic Preservation Ordinance*, and determined, in a report on May 14, 2019, that the four structures met none of the criteria for designation of historic significance.

Ms. Chasteen's findings are summarized in the following table:

ELIGIBILITY CRITERIA

	949 Phillips Blvd.	953 Phillips Blvd.	955 Phillips Blvd.	961 Phillips Blvd.
NRHP				
Criterion A	No	No	No	No
Criterion B	No	No	No	No
Criterion C	No	No	No	No
Criterion D	No	No	No	No
CRHR				
Criterion 1	No	No	No	No
Criterion 2	No	No	No	No
Criterion 3	No	No	No	No
Criterion 4	No	No	No	No
POMONA MUNICIPAL CODE SECTION 5809-13.D				
Criterion 1	No	No	No	No
Criterion 2	No	No	No	No
Criterion 3	No	No	No	No
Criterion 4	No	No	No	No
Criterion 5	No	No	No	No
Criterion 6	No	No	No	No
Criterion 7	No	No	No	No
Criterion 8	No	No	No	No
Criterion 9	No	No	No	No
Criterion 10	No	No	No	No
INTEGRITY				
Location	No	No	No	Yes
Design	No	No	No	No
Setting	No	No	No	No
Materials	No	No	No	No
Workmanship	No	No	No	No
Feeling	No	No	No	No
Association	No	No	No	No

The sole "yes" in the expert evaluation of historic preservation criteria at the national, state and local level, reflects that the 961 East Phillips Blvd. structure was original to the property whereas the others were not.

5. On June 5, 2019, in response to the direction of the Historic Preservation Commission, staff returned findings for denial of the Certificate of Appropriateness and a request for additional input on the findings to deny the application (“...staff found insufficient findings of historical significance for 961 E. Phillips Blvd. Staff is requesting that the Commission provide further guidance and/or findings regarding the historical significance of 961 E. Phillips Blvd.” June 5, 2019 Staff Report, page 4.) As the Sapphos Environmental report could not be considered due to the Commission having closed the public hearing at the April 3, 2019 meeting, and because the Commission had not considered staff matters, the Commission took the application off calendar to permit the item to be re-noticed for a new public hearing at a later date.
6. On November 27, 2019, the Applicant submitted an enhanced Sapphos Environmental report with additional information related to the asserted historical significance of the structures on the property.
7. In public hearing January 15, 2020, the Historic Preservation Commission – supported only by conjecture and surmise - challenged the facts set out in the Sapphos Environmental report, ignored Applicant testimony, engaged in discussion among the Commissioners focused on matters outside proper Commission consideration, and engaged in surmised and wrong commentary about the Applicant based on what was apparently general anger and belief on development within the City before denying the Applicant’s application for a Certificate of Appropriateness.

III. THE WRONGFUL ACTIONS OF THE HISTORIC PRESERVATION COMMISSION IN DENYING APPLICANT’S APPLICATION

A. DIRECTED STAFF TO FIND A WAY TO DENY THE COA

Planning Division staff did their assigned work prior to and in April 2019 in reviewing the significance of the structures at 961 East Phillips Blvd., and determining – against the objective criteria of Section .5809-13.D of the *Historic Preservation Ordinance* and in concert with the City’s Historic Resources Inventory conducted by Diane Marsh in June 1993 – that none of the structures was historically significant and met the criteria of an historic structure.

Inexplicably, members of the Historic Preservation Commission showed virtually no interest in the objective evaluation of staff, nor in the later independent peer review of Sapphos Environmental, but were wrongly fixated on discriminating against the Applicant and finding a way to deny the Certificate of Appropriateness. Staff’s rewritten report for the June 5, 2019 called out the influential instruction of the Commission – “The Commission ultimately requested staff to continue the item to the next regular hearing on June 5, 2019 and return with a recommendation to deny the request...” (Page 2), and, confusion showing, sought the Commission’s directions on how a structure which was clearly not of historic significance could be made so – “...there is insufficient evidence to support the findings for structure D (961 E. Phillips Blvd.), therefore staff seeks further direction from the Commission on what features of the home provide historical significance...” (Page 2)

Again, in light of the updated Sapphos Environmental peer review of November 27, 2019, the Commission required Planning Division staff to alter its evaluation for the January 15, 2020 public hearing in a transparent attempt to negate the expert findings of the Sapphos Environmental review.

As the California Environmental Quality Act applies in part to reviews related to historic structures, staff attempted to undercut the applicability of consideration of CEQA criteria to support the Commission's instruction to deny the Applicant's application ("Pursuant to California Environmental Quality Act, Article 5, Section 15061(b)(4), a project is exempt from CEQA when the project will be rejected or disapproved by a public agency. In this case, the Historic Preservation Commission has recommended the project for denial and therefore CEQA does not apply." Staff Report for the June 5, 2019 hearing.) Staff ignored the complete text of Section 15061(b)(4): "(b) A project is exempt from CEQA if:... (4) The project will be rejected or disapproved by a public agency. (See Section 15270(b))" [Emphasis added]. Section 15270(b) provides [emphasis added]: "(b) This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process *where the agency can determine that the project cannot be approved.*" The process under the City's *Historic Preservation Ordinance* is intended specifically to determine whether historical significance can or cannot be determined; as such the Commission must consider the CEQA criteria as it cannot pre-determine the denial of that status. Further, the CEQA consideration is not avoided by the Commission *wanting* to avoid approval.

For the Historic Preservation Commission to deviate from the charter originating from the City Council by baldly and publicly directing staff to reverse objective findings to find ways to deny the application for a Certificate of Appropriateness is, in the most kind of characterizations, an abuse of power. The reasons underlying the Commission's quest to discriminate against this Applicant and this application have not been investigated, but merit such investigation as it is clear (as noted below) that the denial is not rooted in objective criteria review of the external features of the structures.

B. DID NOT OBJECTIVELY APPLY STANDARDS OF REVIEW

Per the Planning Division staff report for the June 5, 2019 hearing (and that prepared for the January 15, 2020 hearing, which largely mimics the earlier report), the Historic Preservation Commission resorted to unsubstantiated and unsupportable opinion and belief in order to find arguments to deny the application rather than to apply the objective criteria of Section .5809-13.D of the *Historic Preservation Ordinance* and of the Design Guide of July 19, 1999. For example:

1. "...much of the interior of the home such as flooring and moldings have been kept intact." (Page 3; Structure A) (Ignoring that a "Certificate of Appropriateness" is to review *exterior* features of privately-owned structures; *Historic Preservation Ordinance* Section .5809-13.B.3 and Design Guide).
2. "...the structure could be contributing once the front porch was modified." (Page 3; Structure A) (The criteria of *Historic Preservation Ordinance* Section .5809-13.D does not include whether a structure "could be" contributing if "modified").
3. "The Commissioners find the home to be distinct in that the front fascia boards angled out, adding an 'Asian flare' to the home. The original windows and the window to the attic also added a distinct characteristic to the style of Craftsman home. Though 'not wholeheartedly craftsman,' one Commissioner believed that the home was a transition from Victorian to Craftsman. The Commissioners also noted that the home is 109 years old." (Page 3; Structure A) (Conclusory; unsubstantiated. Neither age nor an undefined "flare" or unfounded belief that a structure embodies a transitional style provides "distinctive characteristics of a style, type, period, or method of construction" or "a significant structural or architectural achievement" as required by Section .5809-13.D of the *Historic Preservation Ordinance*).

4. "...the original state of the exterior and interior of the home is historically significant and holds enough craftsmanship indicative of Craftsman Bungalow homes." (Page 3; Structure A) (Conclusory; unsubstantiated. Ignores that the structure was identified in the June 1993 Historic Resources Inventory as being in "poor" condition and altered too much to be contributing; ignores that a "Certificate of Appropriateness" is to review *exterior* features of privately-owned structures; *Historic Preservation Ordinance* Section .5809-13.B.3 and Design Guide).
5. "The Commissioners' *opinion* is that the images of covered wagons on the fireplace *could possibly* reflect special elements of the City of Pomona's cultural, social, economic, or natural history." and "...most of the interior fixtures and kitchen *appear to be* in original condition [Emphasis added] (Page 3; Structure B) (Conjectural and unsubstantiated. Ignores that a "Certificate of Appropriateness" is to review *exterior* features of privately-owned structures; *Historic Preservation Ordinance* Section .5809-13.B.3 and Design Guide).
6. "...much of the interior of the home has been kept intact, the interior exhibits beautiful mouldings, and that the interior kitchen and doors *seem to be* of original materials." (Page 4; Structure C) (Conjectural and unsubstantiated. Ignores that a "Certificate of Appropriateness" is to review *exterior* features of privately-owned structures; *Historic Preservation Ordinance* Section .5809-13.B.3 and Design Guide).

C. FOCUSED ON EXTERNALITIES

During each of the April 3, 2019 hearing, the June 5, 2019 hearing, and the January 15, 2020 hearing, and when responding to the Applicant regarding the pending (and Commission-desired) denial of the Applicant's application, the Historic Preservation Commission focused its attention on matters wholly unrelated to the application of the objective criteria of Section .5809-13.D of the *Historic Preservation Ordinance* to the question of the historical significance of the property. For example:

1. Commissioners focused undue interest on the "plight" of tenants who had vacated the structures, who "suffered" removal through an unlawful detainer action for nonpayment of rent, and who were relocated from structures which had and have been in "poor" condition since at least 1993 to other, more modern properties with financial assistance from the Applicant.
2. Outside of the public comment period during which the Applicant could refute comments, Commissioners took issue with the rendering of an external façade of the proposed twelve apartments on the property which was submitted to the Planning Division with Applicant's application for a building permit.
3. When advised of the expense Applicant bore to stop sewage leakage from the cast iron sewer piping servicing the structures, the dilapidated condition of the structures (to say nothing of their being in poor condition in 1993), and the homeless encampment destroying private property and having to repeatedly be removed by police, outside of the public comment period during which the Applicant could refute comments, Commissioners suggested that the Applicant should be cited by the Health Department for the property conditions.

The foregoing considerations appear to have been partly persuasive of the Commission's denial of the Applicant's application, but do not bear any relation to the objective criteria of Section .5809-13.D of the *Historic Preservation Ordinance*.

D. FOCUSED ON PROCESSES INCONSISTENT WITH THE COMMISSION’S CHARTER

Per the Planning Division staff report for the January 15, 2020 hearing, the Historic Preservation Commission resorted to unsubstantiated and unsupportable opinion and belief in order to find arguments to deny the application rather than to apply the objective criteria of Section .5809-13.D of the *Historic Preservation Ordinance* and of the Design Guide of July 19, 1999. For example:

1. “Commissioner Williams stated based on the designation criteria she would argue that four buildings located on this lot make this parcel unique in that area.” (Pages 4, 5, 6 and 7) (Conjectural and unsubstantiated. Ignoring that a “Certificate of Appropriateness” is to review *exterior* features of privately-owned structures; *Historic Preservation Ordinance* Section .5809-13.B.3 and Design Guide, and historical significance is not based on whether a parcel has one or more structures on it.)
2. “[Commissioner Williams] further noted that four homes on this lot makes it its own historic district (Pages 4, 5, 6 and 7) (The concept is outside of the criteria of *Historic Preservation Ordinance* Section .5809-13.D, and ignores that the City has a process for the designation of an historic district; that process involving consent of involved property owners, Historic Preservation Commission review, and City Council designation, and ignoring further that the process is not instituted by, nor at the whim or wish of, a Commissioner.)

The foregoing considerations appear to have been partly persuasive of the Commission’s denial of the Applicant’s application, but do not bear any relation to the objective criteria of Section .5809-13.D of the *Historic Preservation Ordinance*.

E. WRONGLY APPLIED A MISUNDERSTANDING OF SOCIAL MIGRATION

Subsequent to earlier comments at the June 5, 2019 hearing of the Commissioners addressing the potential that the relocation of three structures to the property in 1956 could have been related to the construction of the Interstate 10 Freeway and been a matter of “social migration”, the revised Sapphos Environmental peer review noted that (a) that freeway construction in Pomona was in 1954 (therefore predating the structures’ relocation and not coming after it), (b) the original locations of each of the structures was not close to the freeway construction, and (c) the structures’ relocation was not related to a “geographical pattern” of “settlement and growth” or “community planning” as conceptualized by Section .5809-13.D.9 of the *Historic Preservation Ordinance* or CEQA criteria. Ignoring the fact-based information, and that the City’s General Plan Update and Pomona Corridors Specific Plan, Appendix C, Historic Resources Technical Report, of July 19, 2012 also established the opening of Pomona’s segment of the San Bernardino Freeway in 1954 (at page 9 thereof), Commissioners at the January 15, 2020 hearing, using open source non-expert Internet-based information to show that the Interstate 10 Freeway as a whole “opened” in 1957, unjustifiably and incorrectly posited that the structures’ relocation *had to have been* related to the freeway construction and was therefore part of a social migration away from that construction.

Commissioners also unjustifiably posited at the January 15, 2020 hearing, that the movement of the three additional structures to 961 East Phillips Blvd. could have been related to the mid-century phenomena across many cultures of extended families living in proximity to one another and theorized that family members – without any basis therefor - potentially relocated their residences to the family’s principal location in the City as part of a social migration. Further, the Commission resorted to unsubstantiated and unsupportable opinion that the relocation of the three additional

structures to 961 East Phillips Blvd. may have been a prescient 1950s forebearer of communal living akin to a conceptualized condominium complex which might be historically interesting.

None of the foregoing discussions, which appear to have been partly persuasive of the Commission's denial of the Applicant's applications, bears any relation to the objective criteria of Section .5809-13.D of the *Historic Preservation Ordinance*.

F. PUBLIC CASTIGATION OF THE APPLICANT

Ignoring the Applicant's testimony at the April 3, 2019 hearing and at the January 15, 2020 hearing that the four structures on the property were in poor and dilapidated condition – virtually uninhabitable condition violative of health and safety standards - and ignoring that those conditions were and have not been caused by Applicant, and further ignoring the same findings of poor condition of the structures dating back to the City's Historic Resources Inventory conducted by Diane Marsh in June 1993, Commissioners publicly castigated the Applicant and besmirched the Applicant's reputation; by (among other actions)

1. without substantiation, and in contravention of the facts presented to the Commission, deriding Applicant as causing the poor and dilapidated structural conditions on the property;
2. without substantiation, and in contravention of the facts presented to the Commission, willfully characterizing Applicant's motivation in seeking a Certificate of Appropriateness as letting the structures' condition deteriorate to blight for the purpose of causing them to be uninhabitable and incapable of rehabilitation as historic resources;
3. alleging, without substantiation or information, that Applicant maliciously terminated tenancies in order to claim economic hardship and to place property interests over human interests (including public health interests); and
4. without a basis therefore, calling into question Applicant's architectural and design knowledge on the basis of the proposed rendering of a possible facade for an apartment development consistent with the City's RHNA obligations and the Pomona Corridors Specific Plan;

in each instance causing Applicant public embarrassment, loss of stature in the business community, and potential financial loss.

The foregoing considerations appear to have been partly persuasive of the Commission's denial of the Applicant's application, but do not bear any relation to the objective criteria of Section .5809-13.D of the *Historic Preservation Ordinance*.

For the foregoing reasons, the Historic Preservation Commission's denial of Applicant's application for a Certificate of Appropriateness should be reversed and the Certificate approved.

* * *

Submitted by

William F. Bresee, Esq.
Leech Tishman Fuscaldo & Lampi
Pasadena, California

LEECHTISHMAN

Leech Tishman Fuscaldo & Lampi

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