

December 10, 2013



CITY OF
TUCSON

Zoning
Administration
Division

Planning &
Development
Services
Department
(PDS)

Jody Gibbs
P.O. Box 1870
Tucson, AZ 85702

Subject: T13SA00339 – 695 S. Main Avenue - (HPZ-13-38) — New construction of office building on corner lot

Dear Mr. Gibbs:

In your letter dated November 18, 2013 you request a Zoning Administrator Determination regarding the above referenced project.

Your November 18 letter references three issues regarding HPZ-13-38 and the City of Tucson's Unified Development Code (UDC) and Technical Standards. In summary the issues are the following:

1. The UDC requires Historic Preservation Zone (HPZ) Advisory Board review of the proposal and the forwarding of its recommendation to the Tucson-Pima County Historical Commission (TPCHC) Plans Review Subcommittee;
2. The PDS Director is required to consider the recommendation of the HPZ Advisory Board when issuing his decision; and
3. Various design elements of the project do not meet the Design Standards outlined in the City of Tucson's Unified Development Code, Section 5.8.6 and Technical Standards Section 9-02.0.0. You also refer to your earlier letter dated November 1, 2013 where you address areas you believe are not in compliance with City standards.

In responding, I will be referencing the UDC and the Technical Standards. In your November 1 letter you reference the Development Standards which have not been in effect since January 2, 2013 when they were replaced by the Technical Standards. They are therefore not relevant when a review is done under the UDC. Although in most cases the language is the same in both documents, only the Technical Standards apply to this HPZ Full Review.

Item 1 - You cite the following section: *"The applicable HPZ Advisory Board shall review and make a recommendation on the application. The recommendation is forwarded to the Tucson-Pima County Historical Commission."* UDC, Section 5.8.5(4) [sic].

I agree that UDC Section 5.8.5.B.4 does read as stated. However, the section

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assumption is that a Board is meeting and forwarding recommendations. In fact the Barrio Historico Board ceased meeting in approximately January of 2007. Regarding the Barrio Historico HPZ Advisory Board, two UDC provisions apply regarding timely meetings and the Board having a quorum and making recommendations.

UDC Section 2.2.8.B.2, states: *"Each HPZ advisory board holds as many regular meetings as necessary to conduct its business in a timely manner."*

UDC Section 2.2.8.B.3, states: *"A majority of the voting members constitutes a quorum of an HPZ advisory board. The concurring vote of the majority of members present and voting is necessary to make any recommendation to the PDSO Director or to the Mayor and Council. If a concurring vote cannot be attained within the specified time allotted by the review procedure, the matter will be forwarded without recommendation."*

At the time of the review of the subject property, the City Clerk's records showed that the Barrio Historico HPZ Advisory Board had no appointed members to hold meetings (all members' terms having expired), establish a quorum, reach a concurring vote or provide recommendations to the PDSO Director within the timeframe allotted for processing an HPZ application. The UDC Administrative Manual Section 3-02.0.0 Compliance Review Time Frames Policy states that the substantive review for Full HPZ Reviews is 45 days.

Item 2 - You cite UDC Section 5.8.5(6) [sic]. I believe you mean Section 5.8.5.B.6 which states: *"The PDSO Director shall consider the recommendations of the HPZ Advisory Board and the TPCHC Plans Review Subcommittee when considering a decision."*

If an HPZ Advisory Board does not meet in a timely manner, cases must nonetheless be forwarded to the Tucson-Pima County Historical Commission Plans Review Subcommittee (the Subcommittee) for review. The City must follow the Compliance Review Time Frames Policy and cannot hold an application until an Advisory Board is formed or has a quorum. In cases where an Advisory Board has not forwarded a recommendation for any reason, the application goes forward to the next reviewers.

Since January 2007, cases in the Barrio Historico HPZ have been reviewed by the Subcommittee and recommendations provided to the PDSO Director. This disposition of cases is necessary when an HPZ Advisory Board does not meet or cannot establish a quorum. Barrio Historico cases have been evaluated with

consideration to UDC Sections 5.8, UDC Technical Standards 9.02.0.0, and the Barrio Historico Historic District Design Guidelines to ensure compliance and compatibility.

Item 3 - In your November 18 letter you refer to the following sections regarding design standards concerns:

- A. UDC 7.1 (c) [sic] *“New construction is compatible with the surrounding properties, in terms of materials and architectural style and character.”*
- B. UDC 7.1(f) [sic] *“All construction materials are appropriate to the building and to the neighborhood.”*
- C. UDC 5.8.6 (3) [sic] *“New Construction... in an HPZ shall reflect the architectural style of, and be compatible with, the contributing properties located within its development zone.”*

In paragraph A above I believe you mean to refer to - Technical Standards Section 9-02.7.1.C; and in paragraph B - Technical Standards Section 9-02.7.1.F; and in paragraph C – UDC Section 5.8.6.A.3.

Your November 1, 2013 letter

In responding to your November 1 letter I will note the appropriate citations that refer to the applicable UDC and the Technical Standards. As explained above the Development Standards do not apply to the review of this property.

You make the following references:

- A. Development Standard 9-02.0 and Figure 2. Comment - As noted the Development Standards do not apply. The HPZ Full Review process has been consolidated under UDC Section 5.8.5.B. The Time Frames Policy cited above applies and it does not specify the different reviews times noted in Figure 2 of the previous Development Standards.
- B. Development Standard 9-02.10 Section 1.1[sic] *“an owner of property within the HPZ has an opportunity to work with advisory board, the Tucson Pima County Historical Commission and planning staff to assure that proposed development protects both historic resources and property values.”* Comment - This citation is found in Technical Standard 9-02.1.1. You state that this provision could not be met because the applicant did not meet with the HPZ Advisory Board. As set forth above,

the Advisory Board must have a meeting in a timely manner with a quorum and a concurring vote. If the Board does not meet for whatever reason, the application must move on to the next reviewers.

- C. Development Standard 9-02.10 Section 1.1[sic] *“This standard does not waive any applicable City regulations or codes.”* Comment - This citation is now found in Technical Standards Section 9-02.1.1. Please refer to the explanation above regarding the disposition of an HPZ Advisory Board in the HPZ Full Review process.
- D. Development Standard 9-02.0-2.1 *“Purpose and Nature of the Review. The emphasis on visual character is consistent with the overall purpose of the HPZ ordinance, which stresses retention of the appearance, setting, and placement of structures to preserve property and heritage values within historic districts.”* Comment - This statement is in the Development Standards. As mentioned, the application was reviewed under the UDC and the Technical Standards that became effective on January 2, 2013. The Historical Preservation Technical Standards are a result of consolidation of HPZ regulations in the UDC and an updated set of standards in the Technical Standards. The closest standards in the Technical Standards to the above Development Standard to which you refer is Technical Standards Section 9.02.3.1 that states *“Alterations to a non-historic building or structure and new construction must be compatible with historic buildings and structures on Contributing Properties located within the development zone of the subject property.”* The same section further states, *“Alterations to a historic building or structure located on a Contributing Property must be true to the style of the original construction or, in the case of new construction, to a characteristic historical style and period within the development zone.”* (underlining added for emphasis)

Statements like “must be compatible” or “must be true to...” are not measurable as a linear dimension would be, but rather depend on an expert review and a finding or recommendation by an expert assessment of the application materials.

In the UDC’s Section 11.4.C defines the terms, compatibility/compatible states, *“Visual consistency of development by mirroring prevailing dimensions, spatial relationships, and architectural and design characteristics of the neighborhood overall and the Contributing Properties within the Development Zone. The term ‘compatible’ does not mean ‘repetition or copy of’ or ‘identical to’ existing structures within the neighborhood. Compatibility is achieved when a*

development is designed in a manner that blends in with the character of structures in the Development Zone.”

In this case, the Subcommittee did an analysis, came to a conclusion and made a recommendation that the proposal met the intent of the definition and standards. That Subcommittee is comprised of City-appointed historic preservation experts, advised by the Historic Preservation Officer. In the review performed on 695 S. Main Avenue, based upon a review of the materials and Subcommittee discussion it was determined that the application was an example of contemporary architecture with adequate historic design relationships. The recommendation was therefore that the proposed design was in compliance. The Planning and Development Services Director accepted and concurred with the Subcommittee's recommendation. The HPZ Full Review Process provides an appeal (UDC Section 5.8.5.B.7) of the Director's decision to Mayor and Council. Because it was not a timely appeal by a party with the right to appeal, an approval was issued to the property owner.

In your earlier November 1 letter you also set forth a page by page list of issues related to the application submittal package.

The submittal is based on a checklist provided to the applicant. Staff uses a checklist to determine the completeness of an application packet at the time of submittal. Since development projects vary, all checklist items are not mandatory to complete an application package. Staff may suggest that an applicant specifically include one or more items. The checklist generally includes:

- Brief narrative outlining the scope of work addressing applicable Design Guidelines listed in UDC Section 5.8.6 Design Standards;
- Completed HPZ application form;
- Zoning compliance review information;
- Scaled site plan (specified materials, colors etc.) with material specifications;
- Scaled, dimensioned elevations with material specifications;
- Aerial photo;
- Photos of the existing structure - in the cases of contributing structure changes;
- Historic Property Inventory Form (if applicable).

The 695 S. Main Avenue applicant provided the following:

- o Full color 3-D visualization of the proposed structure and vegetation;

- Elevations of the proposed structures and existing elevations in Barrio Historico to illustrate compatibility in building form and roof line typologies;
- Scaled, dimensioned, rendered elevations with notes specifying building and plant material and finished floor elevation;
- Scaled, dimensioned and rendered site and landscape plan with notes specifying utilities, planting locations and specimens, and other building details;
- Materials page outlining the proposed exterior surface texture and color with photographs of existing precedents from Barrio Historico;
- An analysis of the development zone contributing properties and Barrio Historico neighborhood within the area including street elevations, zoning, and aerial map;
- Supplemental information about new construction in the area;
- A narrative in regards to compliance with UDC Section 5.8.6 Design Standards and UDC Technical Standards Sections 9-02.3.2 through .12; 9-02.4.1 through .6; and 9-02.7.3.C.1 through .7.

PDSD staff found this application to be complete. The application was then forwarded to the Subcommittee and the City's Historic Preservation Officer. There were no requests for additional application material prior to the Subcommittee's meeting.

The case was continued at the first meeting so the applicant could provide more information regarding window types and building height precedents in the development zone.

The applicant returned to the following meeting with an addendum illustrating window typologies found in the development zone along with building height precedents.

You further raise a series of problems that you found with the materials presented to the Subcommittee. It is important to note that the materials are sent to the Subcommittee and Historic Preservation Officer a week before the scheduled meeting. The Subcommittee has time to request additional materials, and inspect

the site and development zone. Additionally, the members can use tools like Google Maps to see the development zone and the applicable street frontages. Google Maps' photos remain reasonably current.

In its review, the Subcommittee evidenced that it was aware of the development zone by continuing the case in order to obtain additional information about architectural details regarding windows in the development zone.

Below are additional statements from your November 1 letter. I believe the statements concern your opinion of the application shortcomings. These items also were not found to be shortcomings by the Subcommittee nor do they reflect application requirements set forth in applicable regulations.

- Application has no comparison based on a review of accurate development criteria characteristics of the existing historic building in the development zone.
- Application contains a visual comparison that are irrelevant because they are not in the development zone. Application contains one photo and four drawings of street facades.
- In the proposed building and rhythm of the windows and doors to wall is very regular and not typical of historic buildings in the development zone.
- The application identifies the development zone plus an aerial of the zone. At its small scale it contains no meaningful comparison.
- The application illustrates site utilization to allow comparison of historic buildings on the east side of Main Avenue between 17th and 18th Streets and at the southeast corner of Main and 17th are large bulk buildings of simple regular plan form. All are row houses This site use contrasts with the isolated and irregular building footprint of the proposed office building.
- The scale of the street elevations in the application is too small for comparison.
- There is a 38' long ramp with a setback jog and a five foot porch on the west façade. This is not compatible with the historic buildings of the block or the development zone or the historic district.

- The application has narrative that states equipment will be placed on the roof but no documentation was included to demonstrate that such equipment will not be visible. Visible roof equipment is prohibited is stated in Development Standard 9-02.4.0-4.4 [sic] *“Whenever possible, utilities should be located underground or where they are not visible from public rights of way.”*
- The application does not provide comparisons on Sheet 11 for the historic buildings of the block or the zone. Most of those provided are not relevant to the proposed building in style. Development Standard 9-02.0 Sec 3.2 [sic] – *“As shown on figure 5: Height compatibility of building heights is addressed by comparing principal structure proposed heights, in ...new construction...with existing principal structure heights within the development zone.”*
- The frame construction is not an acceptable material for exterior wall construction in Barrio Historico. Further the Code addresses this issue in Technical Standard 9-02.7.3.C.4 - *“Exterior Wall Materials – Acceptable materials are exposed adobe block, exposed brick, stucco, or stone. Unacceptable materials include exposed or painted concrete block or slump block as substitute for brick or adobe.”*
- Stucco when included in the above ‘Development Standard’ quote refers to a stucco surface treatment applied to adobe or brick or stone in Barrio Historico. It does not refer to frame/stucco construction as proposed in the application.

It is important to understand the Development Criteria statement of the Technical Standards (Sec 9-02.3.3.1) indicates that new construction is to reflect the architectural style and character of the existing buildings in a development zone. Further, changes to architectural detailing are evaluated based on comparison of similar buildings within the development zone. New construction must reflect the characteristics of a historical style and period within the development zone. The Subcommittee and the Director came to the conclusion that this application met the intent of the Standards.

The Subcommittee and staff were aware of the window treatment and continued the case for more details. The frame construction is an internal feature reflecting contemporary construction. The reference to Section 9-02.7.3.C.4 refers to repairs

and alterations of contributing structures. Further, the Subcommittee recommended that stucco on frame construction is acceptable for new construction and still meets the criterion of being compatible with the architectural style of the surrounding neighborhood. The front ramp for wheelchair access was approved by the Subcommittee as an accommodation to comply with federal accessibility standards. The building height, and the Sonoran-styled architectural style were all considered. Architecture in the development zone and modern buildings previously approved were also considered in the course of the entire review. These issues were part of their evaluation of a blending of modern techniques with historical character. The “blend” that was represented in this application was found to be appropriate and consequently approved by the Subcommittee.

It is important to understand that one of the keys to reviewing new construction is to ensure that it is not a replica of historic contributing structures but may be identified as a modern building in an historic environment. Reaching this goal requires a review of design criteria and an expert evaluation and recommendation. The HPZ Full Review provides that review. Because there is not prescriptive evaluation of dimensions there will be a certain amount of subjectivity in evaluating an appropriate blend of historic and contemporary elements.

In my review of the materials and the process, I find the application and review to be appropriate and find no requirement or need for a re-application. As a result, no retracting of an approval is necessary. While application materials can always be improved, the application materials in this case and the requested additions from the Subcommittee evidence a thorough and conscientious review.

The UDC Section 1.5.1.E2 states that an interpretation or determination made by the Zoning Administrator is appealable to the Board of Adjustment. Per section 1.5.1.E.3 and 1.5.1.E.4, Notice of intent to appeal include this determination would require a statement explaining the reason for an appeal and must be filed with the Planning and Development Services Department no later than 14 days after the effective date of the zoning determination. A complete appeal application is due no later than 30 days after the effective date of the zoning determination.

Complete Board of Adjustment Appeal Information including appeal fees can be obtained by contacting Russlyn Wells at (520) 837-4948 or Mark Castro at (520) 837-4979.

December 10, 2013

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Mazzocco". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Jim Mazzocco, AICP
Zoning Administrator

JM:/hpz-13-38

c: Teresita Majewski , Tucson-Pima County Historical Commission, Chair
 Jonathan Mabry, COT/Historic Program Manager
 Scott Neeley, Neeley Architecture