

MINUTES APPROVED AT THE HPC MEETING ON SEPTEMBER 14, 2021

Historic Preservation Commission Meeting

Virtual

EMERGENCY MEETING

September 08, 2021

2:00 pm

MINUTES

Roll Call:

Chair McNamara called the meeting to order at 2:07 pm.

Present: Chair Robin McNamara; Vice Chair Joann Pavlinec; Commissioners Jonathan Haeber, Caitlin Hibma, and Michael Hibma

Absent: Commissioners Fatema Crane and Gretchen M. Stromberg

Staff: Jonelyn Whales and Alex Lopez

Approval of Minutes:

July 13, 2021

ACTION: It was M/S/C (Pavlinec/McNamara) to approve the minutes for July 13, 2021; approved by voice vote: 5-0 Ayes: McNamara, Haeber, C. Hibma, M. Hibma, Pavlinec; Noes: None; Absent: Crane and Stromberg.

Meeting Procedures:

Chair McNamara stated that any decision approved may be appealed in writing to the City Clerk within ten (10) days, or by Monday, September 20, 2021, by 5:00 p.m.

Public Forum:

CORDELL HINDLER predicted that reappointments for the Commission will take place in early October of 2021. He invited the Commission to the Council of Industries Shoreline Tour on October 8th, 2021 at the Harbor Master's Building.

Liaison Reports:

There was no liaison present and no reports.

Consent Calendar:

None

Public Hearing:

1. PLN21-160 BRICKYARD LANDING CHIMNEY/ KILNS STABILIZATION AND PRESERVATION PROJECT

Description PUBLIC HEARING TO CONSIDER A REQUEST FOR A DEMOLITION PERMIT TO DEMOLISH THE TOP PORTION OF THE CHIMNEY AND APPROVE A PROPOSAL TO STABILIZE AND PRESERVE THE HISTORIC BRICKYARD CHIMNEY AND KILN STRUCTURES OF THE BRICKYARD LANDING HOMEOWNER'S ASSOCIATION.

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Location 1223 BRICKYARD COVE LANE
APN 560-480-011
Applicant MICHAEL CARNELL, BRICKYARD LANDING HOMEOWNER'S ASSOCIATION
Staff Contact JONELYN WHALES Recommendation: CONDITIONAL APPROVAL

Ms. Whales acknowledged that the Commission had a study session in July of 2021 regarding the project. The applicant has returned to the Commission with an application for demolition because there is extreme hardship to remove the top 35-feet of the chimney. ZFA Structural Engineers have inspected the chimney and have concluded that the chimney poses a threat of falling hazards to the surrounding area. Staff has visited the site and blocked off the area where falling debris may be an issue. Staff recommended that the Commission approve the demolition permit to remove the top 35-feet of the chimney to prevent falling hazards. The existing brick will be removed by hand and preserved for potential restoration or rehabilitation of the chimney at a later date. During the inspection, ZFA Structural Engineers noticed there is severe deterioration of the mortar that poses imminent threats to safety. Upon review of the Historical Resource Code, Section 15.04.303.140.e (2) indicates that the Commission can approve a demolition permit if the Commission determines that there's an immediate extreme hardship existing. In conclusion, removal of the top 35-feet of the chimney will allow the applicant to continue to evaluate preservation efforts for treatment of the chimney.

Mike Carnell, the applicant, shared that the homeowner's association (HOA) was exploring options for the restoration of the chimney when severe damage was discovered. In June of 2021, the HOA was told by Pullman Services that the top portion of the chimney was too fragile to repair. They suggested that the chimney be dismantled and then rebuilt. Due to the hazard of falling debris, the community pool, office, and restrooms have been closed. He emphasized that the application is not a delay tactic, but a way to move forward with the original intent to preserve the chimney and kilns.

Vice Chair Pavlinec indicated that the Commission had provided several recommendations at the July 2021 study session and those recommendations were not included in the new report. She expressed concerns regarding the recommendations made by Page & Turnbull that were not included in the Conditions of Approval. She asked if Page & Turnbull will be managing the removal of the top 35-feet of the chimney. Sarah Brummett, Page & Turnbull, confirmed that they do have construction administration scope for the project. Vice Chair Pavlinec pointed out that it is not listed in the proposal. Mark Moore, ZFA Structural Engineers, mentioned that the agenda states that the construction crew will provide daily reports to the City. Vice Chair Pavlinec interjected that daily reports is different and she wanted to know if a licensed historic preservation engineer will be on-site during the entire removal of the chimney. She emphasized that a licensed historic preservation engineer must be on-site during construction. She did not see in the proposal any language regarding the recommendation made by Page & Turnbull to have the bricks stored on-site and that they be cleaned. She requested that become a Condition of Approval.

Brett Gladstone, HOA, indicated that the HOA supports having a condition that requires a representative from Page & Turnbull on-site during construction. He mentioned that the HOA has not received a proposal on reinstalling the bricks and so the request to have the bricks be cleaned is premature. In terms of the first Condition of Approval, he requested that the condition refer to the August 24th, 2021 letter that was provided by Pullman Services. He pointed out that many of the recommendations provided at the July 2021 Commission meeting do require the dismantling of the top 35-feet of the chimney. He mentioned that many steps have to happen before the

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chimney can be reconstructed and requested that there not be a Condition of Approval that includes a specific date that has to be done. He emphasized that the HOA is committed to restoring the chimney and is looking forward to having discussions with the Commission when the time is right. He concluded that public safety is in jeopardy now and requested that the Commission approve the permit.

Chair McNamara asked how much does the HOA pays for maintenance of the historic structure and when was the last time any maintenance was done. Mr. Carnell agreed that the chimney has not received maintenance in quite some time. The HOA Board yearly evaluates the structures and schedules maintenance for projects that need to be done. Chair McNamara shared that the Staff report indicates that the last maintenance done to the structure was done in 1996. She wanted to understand what has happened since 1996. Mr. Carnell mentioned that the last maintenance report done on the chimney is dated in 2001, but there has been no further work done on the chimney since then. Mr. Gladstone interjected that when the HOA pursues data about restoring the chimney, they will also request maintenance guidelines.

Vice Chair Pavlinec echoed Chair McNamara's comment that there was no maintenance done for 20-years and there have been no funds set aside to do maintenance. She shared that a maintenance plan can be included as a Condition of Approval for the future but she is more interested in stabilization.

Commissioner M. Hibma inquired if Staff has the Development Agreement and does it say who is responsible or how maintenance of the kilns and chimney should be done. Ms. Whales answered that Staff does not have the document but can find it. Commissioner M. Hibma expressed that he wants to understand if there is a process in the Development Agreement that the Commission can use to properly condition the approval. Mr. Gladstone mentioned that he could not find the Development Agreement and requested that Staff provide it to the HOA once they find it. Mr. Carnell mentioned that there was a report done by Interactive Resources on the site before development took place. The report stated that if the developer chooses to keep the structures, there was \$200,000 worth of maintenance that had to be done, but none of that maintenance was done when the structures were released to the HOA.

Vice Chair Pavlinec referenced the minutes from the July 2021 meeting which expressed that one option is to dismantle the chimney to a stable height and that was predicted to cost \$100,000. The other option was to dismantle the chimney to a stable height and then rebuilt it. The cost for that option was \$200,000. If the chimney is restored, reinforcements would have to be placed inside to make the chimney stable. Those reinforcements would cost roughly \$100,000. She suggested the HOA entered into a Surety Bond with the City for \$300,000 which will guarantee that the chimney will be reconstructed. The Surety Bond can be held for some time and so the HOA would have time to follow any restoration steps that they plan to pursue. Mr. Gladstone restated that the HOA has not approved putting the bricks back and there has not been enough time to discuss that with consultants. Vice Chair Pavlinec indicated that this is a way for the City to be ensured that the work will be done.

Commissioner M. Hibma supported Vice Chair Pavlinec's suggestion regarding the Surety Bond. He mentioned that there is nothing in the materials provided to the Commission that there will be a financial hardship to the HOA to rebuild the chimney.

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Mr. Gladstone requested that the Surety Bond money not have specific recommendations on how it can be spent. He pointed out that there are the kilns and there have been discussions about restoring them and providing an educational component to the structure.

Commissioner M. Hibma acknowledged that the Commission is very interested in having discussions about there being an education interpretive component. He noted that any funding for that aspect should be raised by the HOA and the Surety Bond should be used for the chimney. He recommended that the Commission approve a mechanism that allows enforcement that the chimney be rebuilt to meet the Secretary of Interior Standards or in a way that meets the threshold to the California Environmental Quality Act (CEQA) for impacts to a historical resource.

Mr. Moore appreciated that the Staff placed red tags around the site to keep folks away from it. He mentioned that the damage behind the tree is at 10-feet above grade and none of the previous engineering reports identified that significant damage. In terms of timing, he stated that any plans for restoration or preservation can only occur after the chimney has been fully investigated. At present time, inspecting the base of the chimney is unsafe for workers to evaluate. If the application is approved and the chimney is reduced in size. The proper investigation can be done safely and then preservation plans can be drafted.

Chair McNamara summarized that Mr. Moore is suggested to remove the top 50 percent of the chimney. Mr. Moore confirmed that due to the winds, the bricks have become loose from the top down to the base of the chimney. He explained that as the chimney is dismantled, notes will be taken on how it was built as well as its condition. He suggested that the chimney be removed halfway or 35-feet from the top.

Vice Chair Pavlinec recommended changes to the Conditions of Approval. First, that any modification shall be reviewed by the HPC. The second is to change that language so that it is the responsibility of a historic preservation engineer to manage the project, not the crew. In terms of Condition of Approval Five, she recommended that the bricks be cleaned before they go into storage and that they are stored onsite at a location that is reviewed by the HPC prior to permit issuance. She recommended that a Condition of Approval be added that the kilns shall be protected during the chimney construction process. If there is any damage to the chimney or the kilns, they shall be reconstructed according to the Secretary of Interior Standards for reconstruction.

Mr. Moore shared that he has been encouraging the HOA to store the bricks on-site, in a secure area, close to the chimneys. Concerning cleaning the bricks, he agreed that anything loose should be removed, but removing mortar that is heavily bonded to the brick could result in damage to the brick. He emphasized that the longer it takes to start construction, the higher the likelihood that the chimney could collapse and possibly hit a kiln as it falls.

Vice Chair Pavlinec predicted that protection of the kilns can start immediately. Mr. Moore argued that work cannot be done on the kilns currently because they are in the path if the chimney were to collapse. Vice Chair Pavlinec strongly recommended that a condition be placed that if there is any damage to the kilns during the process, that they are repaired or replaced according to the Secretary of Interior Standards for reconstruction. She stated that she cannot recommend approval until she sees written modifications to all of the conditions and the agreement to obtain a Surety Bond.

Commissioner M. Hibma agreed with Vice Chair Pavlinec.

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Mr. Moore asked if the Commission is seeking a written legal Letter of Intent for the Surety Bond or if the Surety Bond should be in place before proceeding. Commissioner M. Hibma disclosed that if a Letter of Intent can be used as an enforcement mechanism, then he is comfortable with a letter. He acknowledged that the application is to remove only half the chimney but there has been mentioned that the bottom of the chimney is compromised. That means that the entire chimney may have to be removed and the amount for the Surety Bond should take that situation into account. Vice Chair Pavlinec predicted that a Letter of Intent would cover only the appeal period time for the project. Ms. Whales confirmed that there is an appeal period for the project. Vice Chair Pavlinec stated that the Surety Bond should be secured before Monday, September 20, 2021 after the appeal period has ended.

Commissioner M. Hibma and Chair McNamara requested that a City Attorney provide guidance. Chair McNamara and Ms. Whales agreed that the Commission needs to review the Development Agreement. Ms. Whales suggested that the Development Agreement and the Letter of Intent be sent to the Commissioners individual instead of having a formal meeting because there is a need to start removing the bricks soon. Vice Chair Pavlinec suggested making the September 14, 2021, meeting an emergency meeting.

Chair McNamara was concerned that there is not enough time to prepare all the documents for the September 14, 2021 meeting. She acknowledged that the HOA may not be able to move as quickly as the City.

Vice Chair Pavlinec wanted all the revised conditions to be prepared and presented to the Commission at the next discussion of the project.

Mr. Gladstone strongly emphasized that there is an immediate danger and the HOA Board is not allowed to seek a Letter of Intent. Also, if the HOA wrote a Letter of Intent, the letter would not be enforceable, and the homeowners can challenge it. He mentioned that this is a unique situation and it may take months to receive a Surety Bond. He pointed out that the agenda item is only about demolishing the chimney, not a discussion about reconstruction or obtaining a Surety Bond. He was concerned about how complex the discussion has become.

Commissioner Haeber asked if the HOA has a reserve fund and how much is in it. Mr. Carnell agreed that the HOA has a reserve fund and he predicted the balance to be roughly \$3 million. He mentioned that the reserve fund is already committed to other maintenance and replacement projects and is a 30-year plan. The situation in question is separate and will require separate funding.

Chair McNamara concluded that there is no funding for maintenance or preservation for the chimney or the kilns and that the structure is not included in the HOA's 30-year plan. Mr. Carnell clarified that there is a small amount committed to removing the first half of the chimney, but funding has not been set aside beyond that.

Vice Pavlinec reemphasized that something has to be done to give the Commission assurance that the chimney and kilns will be reconstructed.

Commissioner M. Hibma expressed that raising the money to fund the project is the HOA's issue and the Commission has provided several options for the HOA to pursue. If the HOA does not agree with the Commission's ruling, they have the right to appeal.

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Mr. Moore restated that drawing out the timeframe will jeopardize saving the historic structure and the safety blockades cannot be expanded because that would block fire truck access to the community. He agreed with Commissioner M. Hibma that the HOA should provide some type of reassurance to the Commission that the chimney and kilns will be rebuilt.

Mr. Carnell acknowledged that the structures were neglected for a long time. He strongly expressed that the HOA will do its best to preserve and restore the chimney and kilns.

Vice Chair Pavlinec stated that the Commission is not asking for bids. The Commission is looking for some type of assurance.

Commissioner Haeber inquired if documentation of the existing chimney will be drafted so that a professional will know how to rebuild it. Mr. Moore confirmed that the chimney will be scanned, photographed and a daily log will be provided to the Commission indicating how the bricks were positioned before they were removed. Mr. Carnell confirmed that Page & Turnbull will do a laser scan and will document the chimney before dismantling begins. Ms. Brummett confirmed that a proposal has already been submitted, contracts are being finalized, and the laser scan will be completed next week.

ACTION: It was M/S/C (Pavlinec/ M. Hibma) to keep the public hearing open and continue the meeting to a date uncertain at which time the Commission will review all of the comments that were made at the September 8, 2021 meeting, and Staff and the applicant will provide all the documents discussed in the meeting to the Commissioners before the next meeting; which carried by voice vote: 5-0 Ayes: McNamara, Haeber, C. Hibma, M. Hibma, Pavlinec, Stromberg; Noes: None.

Ms. Whales shared that Staff can provide all the documents to the Commissioners and a meeting can be held on September 21, 2021.

Mr. Moore requested if a meeting could be held on September 14, 2021. Ms. Whales indicated that Staff would need more time to gather the documents.

Chair McNamara mentioned that if the Commissioners are flexible, a meeting could be held on a different day of the week. She requested that a City attorney be present at the meeting.

Vice Chair Pavlinec suggested that Staff work offline on the date for the meeting.

Commission Business:

- A. Commission member reports, requests, or announcements – None.

Adjournment - The Commission adjourned at 3:30 p.m. to September 14, 2021.