

ARIZONA STATE LEGISLATURE
Forty-fourth Legislature – Second Regular Session

LEGISLATIVE GOVERNMENTAL MALL COMMISSION

Minutes of Meeting
Tuesday, August 1, 2000 – 3:00 PM
House Hearing Room 3

MEMBERS PRESENT:

Donald P. Keuth, Jr.,
Representative Roberta Voss
William McMullen
Polly Rosenbaum

Norman Hintz
Elliott Hibbs
David Richert

MEMBERS ABSENT:

Tom Knapp, Chairman
Senator Tom Smith
Leroy Brady
John Clements
Joy Rich

STAFF:

Kathi Knox, Deputy Director of Research, House of Representatives
Mike Huckins, Assistant Analyst, House of Representatives

Mr. Keuth announced he would be chairing the meeting in the absence of Chairman Knapp, who would not be present today. He called the meeting to order at 3:10 p.m. and attendance was noted. See attached list for other attendees (Attachment A).

OPENING REMARKS

Mr. Keuth welcomed the newest member to the Committee, William McMullen. The minutes of the meeting of March 3, 2000 were distributed to the members for informational purposes only (Attachment B).

PRESENTATIONS

Maricopa County Forensic Science Center Update

Michael Wright, Stichler Group, gave a presentation on behalf of Maricopa County. He noted his firm was last before the Commission in March 2000, and wanted to update the Commission on the progress. He stated at the last presentation the Commission accepted the proposed design, with one recommendation offered by the Commission and two from the public. The recommendation by the Commission to move the building

further north to front the property line had been accomplished. Mr. Wright pointed out on the renderings that the building has been moved north about eight feet so it is exactly on the property line. He indicated the public wanted to see the potential for retail developed along Madison Avenue. By moving the building north, the potential has been created to develop a landscape zone, which can be converted into retail space. The lower portion of the building has been designed to accept retail.

Mr. Wright remarked the third recommendation related to a parking structure along Madison Street. However, in analyzing that recommendation, it was determined it would not be feasible because a significant portion of parking capability would be lost in the project. He described the design and elevations with the north elevation along Jefferson Street as the primary Forensic Center. The ground floor would be office space and the second floor is laboratory space. He said the design complies with the Capitol Mall and Governmental Mall Commission guidelines, and pointed out the location of entrances into the building. He provided samples of the building material available for inspection, stating the main building would be made out of pre-cast concrete, and the base of the building from red sandstone. He explained that particular material is indigenous to the area and has been used extensively on municipal buildings and high-end retail and other buildings throughout downtown.

Mr. Hintz complimented Mr. Wright for the work that the architects accomplished in response to comments by the Commission and the public. He stated he believed it would be a welcome addition to Jefferson Street.

In response to an inquiry by Mr. Keuth regarding the groundbreaking schedule, Mr. Wright replied bids will occur in March 2001, and construction should commence in the summer of 2001. He remarked there is a one-story building on the northwest corner of the site at Eighth Street and Jefferson, as well as another structure, which are not currently being utilized. In addition, there is a cell tower on the corner of Eighth and Madison, which will be relocated.

Mr. Keuth asked if the site clearing will precede the bidding. Mr. Wright replied they are working independently with the cell company to determine if the cost of relocation could be reduced by possibly providing a county location for it. He said that relocation would precede the other demolition, which would be fairly simple.

Fourth Marine Division Memorial Upgrade

Roger Berna, Planning Manager for the Arizona Department of Administration (DOA), distributed a letter dated July 25, 2000, from DOA Director, J. Elliott Hibbs, stating that DOA has reviewed the proposal and it basically has no maintenance impact (Attachment C). He remarked that DOA also discussed the modifications with Library and Archives, and that Arizona Historical Advisory Commission approval is not required. Mr. Berna commented if there is no objection, he did not feel there was any real substance involved for the Commission to review. He said the proposal had previously been presented to the Commission, and that Howard Haury from the Fourth Marine

Division, Chapter 33, was present to answer any questions. He said the plan is to install bricks with the members' names from the Arizona Chapter, along the lines of what was done at the Purple Heart Memorial.

Mr. Keuth said based upon the recommendations of the Director of DOA, the Commission is satisfied and that no motion is required.

Grace Court School

Mr. Keuth explained this has been an ongoing issue including a request for a legal opinion as to the actual authority and responsibility of the Commission relating to the school, and whether or not it had authority to approve or disapprove a request for a demolition permit. He noted correspondence had been received from Legislative Staff relating to the issue and requested an update of the findings.

Kenneth Behringer, General Counsel, Arizona Legislative Council, commented on the March 27, 2000 memorandum from Michael Braun, Executive Director, Arizona Legislative Council (Attachment D). He said one of the duties of the Commission as set forth in Arizona Revised Statutes (A.R.S.) section 41-1362, subsection B, provides that the Commission is to "review and approve or disapprove in writing requests for permission to develop structures or sites or award construction contracts for new buildings or improvements within the Governmental Mall." He noted the term "develop" is not defined in the statute, so the terms in statute which are not defined are given ordinary meaning. He said they looked through other uses of the term in the statute and also referred to the dictionary definition for an ordinary meaning. Some of the dictionary definitions talk about "changing the form, to convert an area into an area suitable for residential or business purposes, or to make available and usable of something previously only potentially available or usable."

He said the idea is to change the form of something in an area. The statute discusses not only developing structures, but sites as well. Demolition or removing a structure changes the form of that site to prepare it for another use. Therefore, the duty to approve or disapprove permission to develop a site includes demolition of a structure on the site. He explained that is the basic analysis, and the statute is fairly clear on that point.

Mr. Keuth indicated a number of individuals present wished to testify.

Sam Udall, representing Grace Court School Alumni, opposes demolition. He testified he lives in Gilbert, and was born and raised in Phoenix. He graduated from Adams School, as it was called at that time in 1944. Mrs. Grace Court was the principal, and the school's name was later changed to honor her. He said he is speaking for preserving the building, and is opposed to the demolition. He stated the house where he formerly lived on 14th Avenue and Adams has since been torn down and is now a parking lot. He talked about the enjoyment of being at that school with Mrs. Grace Court and the many teachers, and emphasized it would be a shame if the

State would allow such a magnificent building to be torn down for “progress.” He noted it is the only school left standing that was built prior to Arizona becoming a State in 1912, having been built in 1911. He said he is hopeful that somehow the State can raise the money so the school could be refurbished and turned into an education museum. He said both political parties stress the number one issue is education, and he said this would be a great time to have something substantial in Arizona to show the many people who visit that we are pro-education. He questioned how we could expect Arizona’s descendents to remember this generation, if we do not remember our heritage that did so much for us in the past. He said he does not represent any particular person, but rather the Alumni of Grace School as an unofficial representative. He then sang the Alma Mater fight song and received a round of applause.

Lisa Irwin, Downtown Resident and property owner, stated she lives two miles from Grace Court and drives by frequently. She said it is sad to see the school in such disrepair, and that it has been allowed to deteriorate for the past twenty years. She added if the Commission allows the demolition of the building, it will be destroying a part of Arizona’s past that cannot be replaced and will be gone forever. She reiterated it is the last standing school in territorial history, which is very important history for Phoenix and future generations. She pointed out the August 11, 2000 issue of Preservation Magazine, published by the National Trust for Historic Preservation, listed the eleven most endangered historical places and the third on the list is historic neighborhood schools. She indicated this is a national epidemic. She urged the Commission to save Grace Court, indicating there is much interest in rehabilitating the school.

Jonathan Barnert, representing the Historic Preservation Advisory Committee (HPAC), opposes demolition, and said the issue is a legal question. He stated he understands the Commission has the authority to rule on whether or not the building will be saved or demolished. Mr. Keuth replied that is correct. Mr. Barnert urged to vote against demolition. He said the public has made statements on this issue, and he wished to echo Mr. Udall’s comments that the State has an opportunity to preserve the past. He said he is running for Board Supervisor in District 5 and has not met anyone in that district who wants to see the building demolished. He said this presents a wonderful opportunity to show what is proposed for the downtown area.

Shannon Dubasik, Community Development Coordinator, Capitol Mall Association, commented that as a representative from the neighborhood, she is very concerned about Grace Court and does not want it to be demolished. She said the neighbors feel it could be a pivotal development in the neighborhood that they have worked very hard to revitalize and restore. They are aware of various proposals for that site, and there are many people present who have very strong passions to save and restore the building. It is significant to the heritage of the State as it is the last remaining territorial school and is listed in the National Register. She urged consideration to save the building.

Verna Watson, representing herself, stated she works at the Capitol, and is a graduate of Grace Court. She is a native of the Capitol area, and remarked that the

State saved Jackson School, but did not save Capitol School. She commented on the beauty and wonderful experiences in the Capitol area, and urged the Commission to save Grace Court. She said it can be used for many purposes, and should be saved for future generations. She said she belongs to Phoenix Union Alumni Association, and many members graduated from Grace School.

Tom Chapman, serves as a member of the Phoenix Advisory Board Committee in areas of neighborhood reinvestment. He said he joins the many people to help save a piece of history in downtown Phoenix.

David Therrien, representing himself, opposes demolition. He stated he is a property owner a couple of blocks from Grace Court. He said the building has historical relevance and is one of the very few remaining historical buildings downtown. He commented that the Commission has a responsibility to preserve historic buildings because once they are gone, it will be too late. He said the demolition of Grace Court will not increase property values, and if anything will decrease those values. He said retaining Grace School is the only choice to make.

Tammy Bosse, concerned citizen. She said a parking lot would not improve the vitality of the area to make it more interesting and dynamic. She said although it may take resources, historic buildings bring vitality to neighborhoods and should be preserved to promote a link to the past. She said the Commission has the responsibility to move forward to enable the preservation of this building, and it is an important decision.

Chantal McCarthy, opposes demolition, recognizing the historical value of the building. She addressed her concerns regarding the Commission's responsibility not only to Arizona, but also to the people and heritage. She hopes the Commission realizes the seriousness and consequences of its decision.

Herb Lowrey, Owner, Lowrey and Associates, opposes demolition. He commented his firm recently obtained a certificate of occupancy for a structure on Second Avenue and Fillmore, which was originally built in 1929. He said everyone had wanted to tear it down because it was a blight to the neighborhood, but now it is becoming the home to eighteen stakeholders downtown. He commented on the value it has brought to the neighborhood and is concerned about other projects such as Grace Court. He said they are part of the Request for Proposal (RFP) submitted to the city, and are concerned whether the neighborhood will continue its historical presence. He said people are interested and will pay to have historical structures preserved as part of the community. He urged the Commission to consider Grace Court an asset to the entire area and to preserve other historical buildings. He remarked if it presents a hardship for anyone owning such buildings, it is because the buildings have not been developed. He said perhaps ten or twenty years ago the community was not ready, but now they are and there are buyers to preserve the history. He urged the Commission to oppose the demolition of Grace Court.

Mr. Hintz referred to his comment about the RFP process and asked about the status.

Mr. Lowrey replied it was turned in to the City of Phoenix, but he has not yet received an answer. He said three proposals are being considered, and he has met with the owners of the property giving them a full outline of the proposals for the building. They have brought in other developers, and are waiting for a reply. Mr. Hintz asked whether the property was for sale. Mr. Lowrey replied that it has not been officially listed for sale.

Susan Shaffer Nahmias, Vice Chair, Phoenix Historic Preservation Commission (PHPC) opposes demolition. She said she wanted to reiterate comments already heard regarding economic preservation and emotional attachment of history in the community and State. She commented PHPC has advocated for the preservation of Grace Court, and the building is one year older than the State itself being the last territorial school in the City. PHPC views it as a very important aspect of the Capitol Mall, and has allocated funding to support its maintenance currently until a decision is made on its future. She said PHPC hopes it will not be bulldozed, and urged the Commission to consider denial of the request for demolition.

Mr. Richert asked whether PHPC was asking for funds in the bond program for 2001 in support of this building. Ms. Nahmias replied continued preservation, care and rehabilitation are very important of whatever PHPC undertakes. She said PHPC is very committed to work hard to obtain funds allocated in the bond proposal.

Mr. Richert asked whether she believed there are funds set aside for this purpose. Ms. Nahmias replied she could not speak specifically of how bond funding will be used, but said there are many buildings in need and certainly Grace Court is one of them. She said since she is not a Committee Member, she is not able to comment whether any funds are going to Grace Court, but believes it is one of the many significant properties that should be preserved.

Mr. Richert said it is important to make sure those bond funds happen so they can be used as seed money, which is the purpose of those funds. He indicated property values are changing, and will cause these buildings to become more endangered.

Reid Butler, Regional Partner for Legacy Partners, said he is present to discuss the Capitol Mews item on the agenda. However, he said his firm is one of the three companies mentioned to submit proposals to redevelop the area around Grace Court School. He said the proposal would create a mixed-use development including housing, office and retail. The school itself would be developed as housing, either as ownership or rental and would wrap around to the back of the site. The center core would be developed as office space. He explained that the old Madison Square Garden Building built several decades ago on Seventh Avenue would be retained and developed as retail, restaurant or a coffee shop. Other retail would also be included toward Van Buren, and would present a wonderful opportunity to combine the old with the new similar to the Orpheum Theater project. He noted the same architect would

combine the old city of Phoenix with new ideas, which is being accomplished throughout the west.

He remarked this site also presents a great opportunity to create a private development. There is a lot of activity with the state capitol expanding, which will add a million square feet over a ten-year period. Grace Court could be a private development that links it to housing, office and retail bringing a market into the downtown area. He said as more rooftops appear in the downtown area, the next issue would be a grocery store. He stated the property is not for sale and the process is moving forward. The RFP process is occurring, but no decision has yet been made.

John Saccoman, opposes demolition. He lives and works in the Capitol Mall area, but does not see many neighbors. He is interested in the area because of the old building, and took a risk two years ago buying a home in the area. He said the architecture of Grace Court lends itself to the community and is symbolic in many ways. If it is demolished, it would be replaced by a vacant lot and a piece of history will be destroyed. The residents who live in the area are opposed to demolition, and are very enthusiastic about the proposal by Mr. Butler to make it into a real community. He urged the Commission to deny demolition of the Grace Court School.

James Braselton, Attorney for Basil David Russell Estate, current owner of Grace Court School. He cited A.R.S. 41-1312 and explained its meaning. He said the law provides for the Commission to focus on the development, maintenance and consistency of a general plan for the area and that the Commission's specific statutory task is to review plans before the city can issue building permits for redevelopment. He said there are a number of constitutional defects, which if necessary, will be raised in a separate proceeding. He said there is a violation of equal protection when two different governmental entities attempt to regulate land out of one parcel. It is within the jurisdiction of the City of Phoenix to determine appropriate land use, and the attempted invasion of another level of governmental oversight violates equal protection. He said it is important to recognize that to the extent the Commission is a governmental agency acting with respect to private property rights, which are protected by the Federal and Arizona Constitutions (Attachment E).

Mr. Braselton commented there has been a lot of talk to save Grace Court, but if the government is going to take efforts to interfere and preclude the owner from developing and re-developing, then the government has the responsibility to compensate the landowner. He noted it is important that the discussion is not about retaining this building as a school, but that it is now privately owned property and protected by the Constitutions of this country and state.

Mr. Braselton commented on the other options available, indicating he has had meetings with all three respondents with the City of Phoenix and is considering the proposals at this time. He said the City has not stepped forward and indicated it is willing to put any money into this project. At this point the city sent out the RFP, and discussions are taking place. He said it is important that if the Commission denies the

application and makes a recommendation to the City Council that the existing demolition permit be revoked and demolition denied, the landowner's hands will be tied. He asked that all factors be considered.

Mr. Hibbs asked whether he was suggesting that the Commission take no action today and to defer any action regarding demolition until he has had a chance to negotiate with the other parties. Mr. Braselton replied it would be his desire that the Commission agree with him on the jurisdiction issue. If the Commission believes it does have jurisdiction, then he would prefer no action be taken at this point and allow continuing discussions. He added the property is currently being appraised and then all proposals will be evaluated. He said additional time is needed to obtain that information before pursuing other discussions for development.

Mr. Richert asked about the appraisals including the building remaining on the property versus not being there. Mr. Braselton replied an appraiser is conducting a full appraisal including highest and best use. He said it is his understanding the appraiser will be evaluating it with the re-development of the school building as an historical structure and also re-development of the site.

Mr. Richert asked whether there could be an enhancement of value. Mr. Braselton replied he cannot speak as to what the appraisal will show, but the charge was to determine highest and best use.

Mr. Richert stated the property is considered part of the Governmental Mall, which is a massive area. He said he stands on property rights, but that Mr. Braselton's client should be aware that something should be evident to show damages, otherwise he will not have "a leg to run on."

Mr. Braselton cited equal protection and explained that the Commission regulates protection over this little area within the City of Phoenix thereby creating an overlay of jurisdiction.

Mr. Richert asked whether it is the intent of the Trust to sell the property. Mr. Braselton replied the Trust is completely undecided whether it intends to sell the property, redevelop the property, or to participate as a partner in development. He said until he obtains the evaluation analysis they are entitled to before their property rights are taken away, they will keep all those options open.

Mr. Keuth asked whether there was anyone else who wished to be heard regarding Grace Court.

Murray Miller, City of Phoenix, spoke in opposition of demolition. He said with any historic building, there are arguments to be made with respect to the economics. He said regarding future bond funds, the City recognizes that this building as well as other buildings require financial assistance. Grace Court has been considered among other buildings in a particular category, i.e., endangered buildings. He stated that issue has

been recognized and will be considered in the next bond fund request. Mr. Miller urged the Commission to take responsibility to preserve historic buildings.

Mr. Keuth asked if any committee members had any further comments.

Mr. Hintz said it appears there are two courses of action and asked Legislative Counsel whether some time should be taken to determine if there is another course of action that could be taken. Mr. Behringer replied that could be considered.

Mr. Keuth asked for any other comments. He said he has been in discussion with the City of Phoenix regarding proposals by well-meaning financial people who can do something positive with this property. The proposals specifically stated that the school had to remain an integral part of the development of the site. He said discussion has also taken place with the owner. He noted that the attorney for the owner indicated some action by this body would go back to the City Council of Phoenix. Mr. Keuth said he does not believe there is recourse back to the City of Phoenix, and if the Commission approved or denied the application, it would be referred to Superior Court. He indicated there is general sentiment that the building should not be demolished and that it should be developed. At the same time he commented that sometimes good decisions are made with unintended consequences.

Mr. Keuth remarked that he appreciates Mr. Hintz's question because he believes the appropriate action would be to allow the RFP process, but only with the clear understanding that this Commission would support the denial of the permit. He added that his concern about placing a denial on the table, even though it may be done with best intentions, could have an impact on the sale of the property and affect financing, title, etc. He said he believes the Commission would like to see that building saved as part of redevelopment. He suggested perhaps a motion should be made to table it until the next meeting with the understanding the Commission strongly urges negotiations between the City, owners and potential developers with the understanding of bringing it back for action which could result in a denial of permit.

Mr. Hintz moved the issue be tabled to the next meeting. Motion was seconded.

Mr. Keuth called for any discussion.

Representative Voss said the motion to table will eliminate the ability for legislators to act on it again, if that is the desire of the Commission. She stated that the chair needs to have the individual withdraw the motion, and the Chair to hold the issue on its own account.

Mr. Hintz withdrew his motion and the second was withdrawn.

Mr. Keuth said the Commission will hold the item until the next meeting.

Design Build - Leaseback

Tim Brand, Arizona Department of Administration (DOA). He said eighteen months ago DOA gave a presentation on a ten-year master plan for the Capitol Mall. The Speaker of the House indicated he liked the plan, but said it required a funding proposal. Mr. Brand remarked DOA did not want to seek additional funding, so came up with "Privatized Lease to Own" (PLTO) under S.B. 1063, which simply merges dollars already in the State budget for office buildings at the Capitol Mall that otherwise was not possible. He said the Legislature was interested in that concept. The bill passed in the House 57 to zero; and in the Senate 28 to zero and signed by the Governor.

Mr. Brand reported that subsequent to the bill signing, DOA proceeded with proposal requests and received seven very good proposals from developers who all met minimum qualifications. DOA selected the number one candidate, Opus Southwest. The proposal involves development of two office buildings. One of the buildings is for DOA, and the other is the Arizona Department of Environmental Quality (ADEQ) building. He pointed out the site on renderings, stating the Evans House will be protected under the proposal. He said the ADEQ building will be six stories totaling 600,000 square feet, including a parking garage.

Mr. Brand proceeded to point out the other phases of the proposal and noted DOA is negotiating with Opus to sign a contract to start. He said DOA will be back before the Committee and will obtain city permits. He stated that the developer will own the building over a term. The state will then lease the building, and it will become the property of the state. The DOA building will be a four-story office building, including 185,000 square feet. A parking garage will be built between 1616 W. Adams and 1520 W. Adams.

Mr. Keuth said it is an interesting process. Mr. Brand said the concept is step two of a ten-year plan. Step one was the re-creation of Seventeenth Avenue, which is taking place currently.

Mr. Keuth asked when construction is anticipated to begin. Mr. Brand replied according to schedule, January 1, 2001. Mr. Hintz said he wanted to compliment them for moving out of a taxpayer controversy. Mr. Brand replied the concept is less expensive for the State. Mr. Keuth said it will be advantageous to have the State employees located in the area.

Capitol Mews Presentation

Mr. Butler gave a presentation on a proposed 200-unit apartment property to be located on Van Buren next to University Park. He explained that he became involved in 1988 when bond funds were available to help revitalize neighborhoods. He commented a proposal was made two years ago to DOA to purchase Evans House in order to construct additional housing around that building. He said at that time Grace Court was

considered as a potential site for a mixed-use development, but was turned down by the State because the State had a long-term plan to bring office space back into the Capitol market.

Mr. Butler explained the next site consists of seven acres located by University Park, which has been under contract for one and a half years. He said multiple layers of financing have been completed for the project including bond financing by the State of Arizona in January, which closed in May. He said the next stage of financing will be completed prior to October. He commented this property will be under construction in October. He pointed out the concept is to build 200 rental apartments on the seven-acre parcel of land, and the real challenge is to develop attractive housing and make it safe without making it a fortress. He explained how the project would be completed, with affordability being an important factor comparing prices with the marketplace. He said they are in the planning process working with the City and will be submitting for permits with construction in October. The project will be completed in twelve to eighteen months. He said three years ago this type of housing would not have been possible, but today it has received much support

In response to a question from Mr. Hintz regarding the range of rents, Mr. Butler replied the range will include one-, two-, and three-bedroom apartments which will be approximately \$200 to \$250 lower than market.

In response to a question from Mr. McMullen as to whether it included city subsidies, Mr. Butler responded there are five layers of financing. The City of Phoenix will provide home loan funds to be repaid over twenty years, and the core will be tax-exempt bond financing which was extended by the State last January. The total funding package including other financing totaling \$16 million. He added it is a complicated financing structure. Mr. Butler said groundbreaking will occur in October.

A motion was made by Mr. Richert and seconded by Mr. Hintz to endorse the Capitol Mews project. The motion CARRIED.

There being no further business, the meeting adjourned at 5:00 p.m.

Respectfully submitted,

Nancy L. DeMichele
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 113.)