

SECTION 5

Transcript of the
May 1, 2023
Landmark Commission
Hearing
1012 Betterton Circle
CD223-008(RD)

IN RE:

1210 BETTERTON CIRCLE

AUDIO TRANSCRIPTION OF THE PUBLIC HEARING OF

5/1/23

TRANSCRIBED BY MAUREEN C. BRZYCKI, COURT REPORTER

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1 THE CHAIRPERSON: The next case we
2 shall here is D9.

3 DR. DUNN: Dr. Rhonda Dunn, speaking
4 on behalf of City staff, presenting
5 discussion item D9. The subject
6 property is located at 1012 Betterton
7 Circle in the Tenth Street neighborhood
8 historic district. The case number is
9 CD223-008RD.

10 The request is to demolish a
11 main residential building. The standard
12 being used is imminent threat to public
13 health and safety. The staff
14 recommendation is that the request for a
15 certificate of demolition to demolish
16 main residential building be approved in
17 accordance with the specifications dated
18 5/1/2023. The proposed work is
19 consistent with the City code.

20 THE CHAIRPERSON: Task force? You
21 drifted. Okay. Turn your microphone on
22 too.

23 TASK FORCE SPEAKER: Yeah. The
24 request for task force recommendation --

1 that the request for certificate of
2 demolition to demolish main residential
3 building be approved with the following
4 conditions. Come up with a salvageable
5 plan for the items that are salvageable
6 and replace the current structure with a
7 structure that is of original size and
8 massing of the original structure.

9 THE CHAIRPERSON: All right.

10 We have registered speakers.
11 The first is Artis L. Cooper.

12 MR. COOPER: Yes.

13 THE CHAIRPERSON: Hello, sir.

14 Can you please give us your
15 name and address.

16 MR. COOPER: My name is Artis L.
17 Cooper, 187 County Road, 33722 De Berry,
18 Texas.

19 THE CHAIRPERSON: Thank you.

20 You might want to move that
21 microphone -- you're tall, so you might
22 want to move it up to your mouth a bit.

23 And then you swear or affirm
24 that you'll tell us the truth?

1 MR. COOPER: I do.

2 THE CHAIRPERSON: All right.

3 You have three minutes to
4 discuss your application.

5 MR. COOPER: First I'd like to say I
6 heard what the restrictions are with
7 conditions. I don't understand the
8 conditions because one of the main
9 problems with the house is that I bought
10 the house at a certain dimension, and
11 when I was going through the process of
12 trying to get someone to fix the house,
13 the City said that the house had
14 add-ons. So the add-ons was what took
15 the house out of being contributing as
16 far historical. So I bought the house
17 at 1800 feet, and they were saying the
18 house by the City diagram was 1200 feet.
19 And before the house ever became
20 historical, I had already started
21 remodeling the house because I bought
22 the house in '83, and I had started
23 remodeling the house because that's what
24 I bought the house to do because I am

1 a -- I guess you'd say a descendant of a
2 resident of the neighborhood. So I
3 bought the house to fix it up. And
4 during that process, as everyone keeps
5 saying it's historical, the majority of
6 that material -- the outside material on
7 that house is not original. Because in
8 the process of trying to make it look
9 like one whole house instead of a lot of
10 add-on pieces, I bought the wood to make
11 the house to look as it's one structure.
12 Only about one-fourth of outside
13 structure is 117, so I don't know what I
14 would be saving as far as the Historical
15 Commission and the outside of the house,
16 which I had so many problems of trying
17 to fix the house with code and everybody
18 else. And that came up after I found
19 out you made it historical. Because I
20 had changed the outside, the windows and
21 everything. And then once it became
22 historical, then I started going through
23 burglary. I really couldn't fix the
24 house no more.

1 THE CHAIRPERSON: All right.

2 Thank you, sir. We have two
3 other speakers. And then we'll be
4 asking people questions.

5 Charles Cooper?

6 MR. COOPER: Good afternoon. My
7 name is Charles Cooper. I stay at 314
8 Cedar Creek Drive in Dunfield, Texas,
9 and I promise to tell the truth.

10 THE CHAIRPERSON: Thank you, sir.
11 You've listened to a lot of these,
12 haven't you? You now have three
13 minutes.

14 MR. COOPER: I've been familiar with
15 that process -- my brother really wasn't
16 going to be here because he's so
17 frustrated. Well, like he said, he
18 bought this house in 1982 before it
19 became historical. He did a lot of work
20 and then through blight, lack of City
21 services, the homeless, crime and drugs,
22 if -- he couldn't live there. Because
23 he couldn't go to work and come home and
24 his stuff still be there. So he left,

1 and then the house began to deteriorate.
2 And every time he would try to do
3 something, the City would say, you can't
4 do this because it's in a historical
5 district. And he always tried to tell
6 them, it's noncontributing and after
7 talking to Ms. Dunn, I -- like I told
8 them, we just wanted the opportunity to
9 come back to where -- where my
10 grandmother has been here nextdoor for a
11 hundred years. He bought the house from
12 Ms. Williams in '82, so he's been there
13 40 years.

14 We just want to be able to
15 leave our children a home that they
16 would be proud of that would be
17 compatible with the historical district.
18 But to do that, to try to renovate or
19 restore this house is cost prohibitive.
20 It needs a new foundation, new retaining
21 walls. Like he said, most of the
22 original structure is not even original.
23 It's just what they see, and then they
24 want to restrict him to -- he didn't buy

1 a 1400 square foot house. He bought an
2 1800 square foot house. So to reduce
3 that would be to reduce his living space.
4 So I just want to -- and I'm here too to
5 answer any questions that the Commission
6 might want us to address. But that's
7 what we going to do.

8 We know we're going to have to
9 start over from the foundation, the
10 drainage, the retaining walls, the
11 structure and all I'll always coordinate
12 with Ms. Dunn on what her opinion is on
13 what we propose to do. That's my
14 opinion. Thank you.

15 THE CHAIRPERSON: All right.

16 Thank you, sir. And we have
17 one more, Larry Johnson.

18 LARRY JOHNSON: Good afternoon.
19 Larry Johnson, 214 Landis. I swear to
20 tell the truth, the whole truth, and
21 nothing but the truth.

22 We're in a tight spot today.
23 I'm standing here on behalf of the Tenth
24 Street Residential Association. We have

1 all reviewed this case, and the reason
2 why we're for it is actually because of
3 our large -- due in part to the three
4 thousand square foot rule, which
5 basically says that any structure under
6 3000 square feet with a court order can
7 be torn down. And it puts us in a tight
8 spot. It puts in a position to where we
9 have to take lemons and make lemonade.
10 And after speaking with the applicant,
11 what he's desiring to do is to take down
12 the current structure is to do a remove
13 and restore.

14 And so when I first got
15 involved with the District, we were
16 going through a demolition, and right
17 now what we have is an empty lot. And
18 so in a case where an applicant wants
19 to -- in the case where an applicant has
20 done their due diligence, and they have
21 found that the structure is either
22 irreparable or it would be better to,
23 in their eyes, to rebuild. Anything is
24 better than a vacant lot. And so until

1 the three thousand square foot rule is
2 abolished, we're kind of having to take
3 lemons and make lemonade.

4 And so beside that, to Artis
5 Cooper's credit, I actually worked with
6 him physically on this house just to be
7 told that the City of Dallas on numerous
8 occasions has come through and has told
9 him to stop work.

10 We don't understand that.
11 Because he was not doing anything to
12 change the curb view of the property.
13 He was simply fixing his house. I
14 understand his frustration. I get it.
15 But because of the three thousand square
16 foot rule and because of what he could
17 do, when I reached out to the other
18 community members, we decided that what
19 it is he's looking to do, while it's not
20 the best thing, it's not all that we
21 want, we would prefer the house be fixed
22 up but given where we are, this is kind
23 of -- it's a tough decision for all of
24 us.

1 Thank you.

2 THE CHAIRPERSON: Thank you.

3 I would like to ask City
4 attorney to confirm that you told us
5 during your briefing that there is not
6 an in-place court order on this one,
7 correct?

8 CITY ATTORNEY: I said I don't know
9 if it has expired. I don't -- that was
10 prior to my time at the City, so I don't
11 know.

12 But again, we are here under
13 the standard that it's demolished --
14 remove a structure that poses an
15 imminent threat to public health or
16 safety, so you're using the -- those
17 standards that the structure constitutes
18 a documented major immanent threat to
19 public health and safety. The
20 demolition or removal is required to
21 alleviate the threat to public health
22 and safety, and there is no reasonable
23 way other than demolition or removal to
24 eliminate the threat in a timely --

1 manner.

2 So if it means all of those
3 three, you must approve. However, if it
4 doesn't meet one of those, you can deny
5 based off, which one this particular
6 property does not meet.

7 THE CHAIRPERSON: All righty.

8 Thank you. So what questions
9 do commissioners have for staff or any
10 of our speakers?

11 MALE COMMISSIONER: I have a
12 question for applicant.

13 It was brought up that you're
14 going to take this down, and you're
15 planning on -- to do a restore -- or a
16 rebuild and likewise, similar to the
17 house that is there; is that correct?

18 APPLICANT REPRESENTATIVE: That's
19 correct.

20 MALE COMMISSIONER: And then it
21 seems like really one of the only things
22 that is kind of popping up on this
23 salvage plan, to be able -- do we have a
24 documented -- just a simple floor plan

1 of what this -- what you have existing?
2 I mean, I see some photographs, but I
3 haven't seen a plan.

4 APPLICANT REPRESENTATIVE: There's
5 nothing existing. It's all been
6 plumbing, electrical --

7 MALE COMMISSIONER: I understand. I
8 understand.

9 Is there a plan? Is there just
10 a simple plan showing where the windows
11 are, where the doors are, the roof, just
12 a simple plan of the house?

13 APPLICANT REPRESENTATIVE: Just
14 pictures.

15 MALE COMMISSIONER: Just pictures.

16 The only thing I would be
17 concerned with is -- I understand it
18 needs to -- the reasons why it needs to
19 come down, I understand that. But I
20 also understand to make sure that we
21 have it documented before it comes down,
22 so when we go back -- when you go back
23 to put it back, that you're having
24 something that's somewhat accurate to

1 work off of.

2 So how are you answering that
3 question, if you have --

4 APPLICANT REPRESENTATIVE: Well, are
5 you asking me if we finna(sic) build the
6 same house back?

7 MALE COMMISSIONER: Well, same
8 house -- that's what I thought I heard
9 that you're going to restore this house
10 when you --

11 APPLICANT REPRESENTATIVE: We're
12 going to build within the criteria that
13 y'all allow us when we present a new
14 plan.

15 MALE COMMISSIONER: Right. When you
16 present it. Right.

17 THE WITNESS: That's the house we
18 going to build, that.

19 MALE COMMISSIONER: Okay.

20 So it could be something
21 completely different than this.

22 THE WITNESS: It's going to be
23 within the criteria of the historical
24 district.

1 MALE COMMISSIONER: Right. Okay.

2 THE WITNESS: See my thing of it is
3 that be -- to be honest with you, it's
4 got to -- that house -- the whole thing
5 of the house, because I am construction
6 savvy, it take more to fix that house
7 then to get a new structure back.

8 MALE COMMISSIONER: Right.

9 And our concern is usually
10 the -- as you know, the historic
11 materials -- the historic facades, as
12 you know, a lot of these neighborhoods
13 that we're -- and trying to maintain
14 some of that. And if we can't maintain
15 it, how can we celebrate it when you do
16 build it back? Under those -- and
17 that's why we have those criteria.

18 APPLICANT REPRESENTATIVE: Oh, I
19 understand.

20 But what I'm saying is for that
21 house though, ain't none of that left.
22 I mean, that was part of the whole deal
23 because of the vandalism. That's the
24 reason -- they was breaking out all the

1 windows, the doors, everything. I
2 mean --

3 MALE COMMISSIONER: I understand.

4 APPLICANT REPRESENTATIVE: So my
5 thing is now what we want to do is -- is
6 stay within the criteria of the
7 historical district, but be able to
8 maximize that lot what we can do.
9 Because we know the park is coming, we
10 know everything is going on, but we want
11 to stay in the criteria, but we also
12 would like to make that area something
13 that people will see --

14 MALE COMMISSIONER: I understand.

15 APPLICANT REPRESENTATIVE: And want
16 to come to it, if that makes --

17 MALE COMMISSIONER: I understand.

18 I'm following you. My only --
19 going back to my question is -- I would
20 just like to have some sort of
21 documentation of what's there because
22 once it's gone, it's gone. And there's
23 no documentation of what the original
24 was.

1 APPLICANT REPRESENTATIVE: Well,
2 from my understanding --

3 MALE COMMISSIONER: And also some
4 recording of the materials that you may
5 have twenty percent, materials left, and
6 it would be a good understanding of --
7 understanding of what you have left on
8 the --

9 APPLICANT REPRESENTATIVE: What are
10 you saying, twenty percent of? Of that
11 structure, or --

12 MALE COMMISSIONER: Yeah. Like your
13 siding.

14 APPLICANT REPRESENTATIVE: Well,
15 that siding is not historical no more,
16 sir. That's what I was trying to
17 express.

18 MALE COMMISSIONER: Yeah.

19 APPLICANT REPRESENTATIVE: The
20 house -- when the fire happened, it
21 destroyed -- that one-fourth.

22 MALE COMMISSIONER: Mm-hm.

23 APPLICANT REPRESENTATIVE: Because I
24 had to replace all of that because of

1 previous fires, previous vandalism,
2 windows and doors, I lost everything out
3 that house to be honest with you --

4 MALE COMMISSIONER: So what you're
5 saying --

6 APPLICANT REPRESENTATIVE: The
7 cabinets, the sinks, the wiring, the
8 plumbing is in the ground. I mean,
9 that's -- that's the reason. When I had
10 the house estimated for construction,
11 what the guy was really telling me is
12 that they was going to build a house
13 within a house. In other words, they
14 were going to charge me to slowly
15 demolition the house while
16 reconstructing it step by step, which
17 is -- came up to an astronomical figure,
18 if that makes any sense. And majority
19 of the wood -- when I evaluate it is,
20 like my brother said, we got lead, we
21 got humidity. The wood is rotting.
22 It's really -- it's a certain board in
23 there, if you move it, that house will
24 fall in. And that's the reason why I

1 want to get out. Because I got people
2 going into the house and the flooring is
3 about to fall in, and it's really
4 creating a liability.

5 If somebody get hurt, I can get
6 sued. And I'm not trying to lose the
7 property so I will be able to go back
8 and put another structure there. I want
9 to pass it onto my family.

10 I mean, I had a contractor out
11 and he walked out and said it was too
12 dangerous to be in there.

13 CITY ATTORNEY: Madame Chair, if I
14 may, again, we're looking at whether or
15 not this meets the criteria for imminent
16 threat to public health and safety.
17 Yes, while we are talking about historic
18 preservation, and it's a good thing to
19 document, but there -- you do have in
20 terms of materials, that's not a
21 requirement. And talking about what's
22 going to be built in the future, that's
23 also not on the agenda, so we also
24 shouldn't be talking about it.

1 But they would have to build
2 within the new construction preservation
3 criteria of the historic district.

4 MALE COMMISSIONER: I understand.

5 The thing I was getting at on
6 some of the recommendations --

7 COMMISSIONER OFFIT: Madame Chair --

8 MALE COMMISSIONER: -- there's been
9 salvage plans set on the
10 recommendations, so --

11 THE CHAIRPERSON: Hang on, Mr.
12 Offit.

13 MALE COMMISSIONER: -- so I was just
14 trying to see where are on the salvage
15 plans.

16 CITY ATTORNEY: And -- right.

17 That was task force
18 recommendations, but I had reiterated
19 during the briefing that those were not
20 appropriate conditions to attach to
21 the -- if this Commission were to
22 approve, those are not appropriate
23 conditions to approve the certificate of
24 demolition, as it does not speak to the

1 standards.

2 THE CHAIRPERSON: If Mr. Cummings is
3 finished -- are you finished? Then
4 Commission Offit would like to speak.

5 COMMISSIONER OFFIT: I'm ready to
6 make a motion if there's no other
7 question.

8 THE CHAIRPERSON: Are there any
9 other questions?

10 COMMISSIONER SWAN: I actually do
11 have a question.

12 THE CHAIRPERSON: Okay.

13 Commissioner Swan also does
14 wish to ask a question.

15 COMMISSIONER SWAN: I have a
16 question for Counsel.

17 In as much as the promise of a
18 new construction has been dangled in
19 front of us in this meeting, it sounds
20 to me like this -- this case is sounding
21 more like it falls under the standard of
22 replacement with a more appropriate
23 structure.

24 CITY ATTORNEY: Yes.

1 But they came under the
2 application for the imminent threat to
3 public health and safety. And that is
4 the standard we are to use because
5 that's what was posted.

6 COMMISSIONER SWAN: Okay.

7 CITY ATTORNEY: So we have to follow
8 what was on the agenda.

9 COMMISSIONER SWAN: Okay.

10 Then I have a question for
11 Mr. Johnson.

12 LARRY JOHNSON: Yes.

13 COMMISSIONER SWAN: Mr. Johnson,
14 do -- do you as a representative --
15 well, does the Tenth Street Residential
16 Association believe that this house
17 poses a major and imminent threat to
18 public health and safety?

19 LARRY JOHNSON: No, we don't feel
20 like it poses a threat.

21 COMMISSIONER SWAN: Okay. Thank
22 you.

23 THE CHAIRPERSON: Are you done,
24 Mr. Swan?

1 COMMISSIONER SWAN: I'm done.

2 THE CHAIRPERSON: Are there any
3 other questions? Because Mr. Offit has
4 a motion to make.

5 Okay. Commissioner Offit,
6 please make your motion.

7 COMMISSIONER OFFIT: On the matter
8 of 1012 Betterton Circle, Tenth Street
9 Neighborhood Historic District,
10 CD223-008RD, I move to approve staff and
11 task force recommendations as presented.

12 CITY ATTORNEY: Commissioner Offit,
13 with staff force recommendation, they
14 had those conditions that weren't
15 appropriate, so it would be just per the
16 staff recommendations that it does meet
17 the standards in the section of the
18 code, and it's just approving the
19 certificate of demolition without those
20 conditions.

21 COMMISSIONER OFFIT: Okay.

22 THE CHAIRPERSON: All right.

23 Are there -- is there a second
24 on this motion?

1 FEMALE COMMISSIONER: I second.

2 THE CHAIRPERSON: I think -- I think
3 we'll take Mr. Fogelman's second. He
4 was first, but quiet. Turn your
5 microphone on. Okay. All right.

6 Is there any further
7 discussion?

8 Commissioner Swan?

9 COMMISSIONER SWAN: Yeah.

10 I just heard testimony from the
11 community that they do not believe this
12 house poses a major imminent threat to
13 public health and safety. I'm inclined
14 to go with that testimony. I see
15 Counsel moving in action.

16 CITY ATTORNEY: The standard is
17 whether the structure constitutes a
18 documented major and imminent threat to
19 public healthy and safety. It's not
20 based off testimony, so if there's a
21 document that says this is a property
22 that is imminent threat to public health
23 and safety, then you have to rely on
24 that piece of documentation.

1 COMMISSIONER SWAN: I see.

2 THE CHAIRPERSON: May I ask,
3 Counsel, but what if we feel that the --
4 the information presented by the
5 consultant who said it was in terrible
6 condition, we believe some of their
7 points were not as serious as they
8 proclaim them to be. I'm saying we as
9 in me, and I'm not saying I actually
10 know that much, except I know older
11 houses sometimes don't have as much
12 support as newer houses, and that can
13 always be repaired by adding. So what
14 if we question whether the documentation
15 provided actually proves that it's an
16 imminent threat?

17 CITY ATTORNEY: You can use the
18 other parts of the standard, which say
19 the -- the demolition or removal is
20 required to alleviate the threat to
21 public health and safety. If you
22 don't -- in your opinion, you don't
23 believe that -- because it is
24 documented, so we can't take that

1 condition away. But if you think
2 there's other ways to alleviate the
3 imminent threat, as opposed to
4 demolition, then you can use that as
5 well. But you would have to make those
6 findings of fact on the record.

7 THE CHAIRPERSON: And also, if we
8 were to not approve the demolition
9 today, would it be possible for the
10 applicant to come back and ask for
11 demolition permit under the other
12 standard where they would like to
13 replace with something more compatible?

14 CITY ATTORNEY: If you deny without
15 prejudice, yes, they can come back with
16 the same standard or they can come back
17 with a different standard.

18 COMMISSIONER SWAN: Okay.

19 THE CHAIRPERSON: Okay.

20 Sorry to have interrupted you,
21 Mr. Swan.

22 COMMISSIONER SWAN: That's okay.
23 Thank you for recognizing -- because
24 what I'm hearing today -- what I'm

1 seeing -- what we are seeing is a --
2 recommendations made by the task force
3 that we realize we cannot make as
4 conditions today.

5 However, the -- there is
6 something behind -- there's a spirit
7 behind those conditions, and I'm just
8 looking for ways to preserve the spirit
9 of the conditions. And perhaps that
10 is -- and also that -- the promise of
11 something other than a vacant lot has
12 been suggested to us today.

13 You know, a house. Something
14 that could be passed down to the family.
15 So what I'm saying is that I don't think
16 that -- in response what are the other
17 two conditions? One is demolition and
18 only way to do so in a timely manner.

19 CITY ATTORNEY: Right.

20 COMMISSIONER SWAN: Yes.

21 CITY ATTORNEY: So this Commission
22 has to approve the application to
23 demolish if it finds the structure
24 constitutes a documented major and

1 imminent threat to public health and
2 safety; two, that demolition or removal
3 is required to alleviate that threat to
4 public level and safety. And three,
5 there is no reasonable way, other than
6 demolition or removal to eliminate the
7 threat in a timely manner.

8 So if it meets those three,
9 then you must approve it.

10 COMMISSIONER SWAN: Okay.

11 And I would say with number
12 three, I think we could still be
13 addressing this in a timely manner with
14 the applicant to come back with a
15 proposal for what -- what he intends to
16 replace the house with.

17 CITY ATTORNEY: Right.

18 But we're trying to diminish
19 the imminent threat to public health and
20 safety. So saying what's going to --
21 what's going to replace, how --

22 COMMISSIONER SWAN: Because if that
23 is accepted by this body, then we can go
24 ahead and address the certificate.

1 CITY ATTORNEY: But we're saying
2 that the property the way it is, it is a
3 threat to public health and safety, so
4 -- there's no other way to eliminate
5 that threat in a timely manner other
6 than to demolish it. Coming up with
7 what's going to replace it doesn't
8 really talk to the -- that it -- that
9 the structure is an imminent threat to
10 public health and safety.

11 Does that make sense? We're
12 trying to eliminate that it's a threat to
13 the public health and safety to the City,
14 so talking about what it's going to
15 replace it with isn't eliminating that
16 threat that it's still a public -- that
17 it's still a threat to the public health
18 and safety of the City.

19 COMMISSIONER TAYLOR: This is
20 Commissioner Taylor --

21 THE CHAIRPERSON: Go ahead,
22 Commissioner Taylor.

23 COMMISSIONER TAYLOR: As someone who
24 actually walked around -- as someone who

1 has actually walked around this building
2 and seen the bamboo, you know, garden in
3 the back, it is a home that is in dire
4 need of repair, and it's -- it can't be
5 worked on in the condition it's in. I
6 still cannot approve a demolition for
7 the structure with -- without a plan for
8 moving forward, whether it is rebuild or
9 raise. And so I understand the issue of
10 the public health, but -- but for me, I
11 can't support the demolition in its
12 state right now just to leave a vacant
13 lot.

14 THE CHAIRPERSON: Mr. Taylor, might
15 I ask when you were near the building,
16 were you at all concerned it would fall
17 upon you?

18 COMMISSIONER TAYLOR: No, but I am
19 --

20 THE CHAIRPERSON: I'm just asking
21 for your evaluation of whether you
22 thought it was going to fall down.

23 COMMISSIONER TAYLOR: No, it was in
24 dire structural need, and when I walked

1 it, it was close to two years ago. No,
2 actually three years ago. So it -- it
3 definitely had deteriorated in those
4 years, but as just as a resident of
5 Tenth Street and someone who has seen
6 the conditions of these homes, I can't
7 just blanketly say, let's demolish it.

8 THE CHAIRPERSON: Okay.

9 What if the truth is you are
10 required to approve the demolition if
11 you think it's a danger without any
12 other considerations, which is what I
13 think our attorney is trying to tell us,
14 that we don't get to think ahead
15 necessarily. Then do you change or do
16 you stick with that? Because I'm
17 confused. I'm trying to make up my mind
18 where I stand.

19 COMMISSIONER TAYLOR: I understand
20 that they want to demolish it, but I
21 will not support the demolishing of the
22 building.

23 THE CHAIRPERSON: All right. Thank
24 you.

1 Mr. Offit has something to add.

2 CITY ATTORNEY: I'm sorry, but
3 again, we cannot rely on that we don't
4 know what's going to happen in the
5 future. Because that's not part of the
6 standard. So if you are to deny this
7 demolition, it needs to be with a
8 finding of fact it doesn't meet one part
9 of the standard that I read.

10 THE CHAIRPERSON: Okay.

11 Mr. Offit?

12 COMMISSIONER OFFIT: Yes. And I --
13 (inaudible) remind everyone, we have
14 a -- we had a very similar situation
15 that went on for two years, I believe,
16 where we wouldn't allow somebody to
17 demolish something, and had them come
18 back with a new bill, we approved the
19 new bill, and then still refused to let
20 them demolish that. So we're sending
21 all kinds of mixed signals there. And
22 I've got to go with staff and what the
23 folks that are there touching that thing
24 understand and see. Thank you.

1 THE CHAIRPERSON: All right.

2 Thank you. I do remind the
3 Commissioners what we do on one case
4 does not set up a precedent for the
5 others. Though changing our mind and
6 stringing people along, that we might be
7 accused of, if we ever did that too much
8 is certainly something to be avoided by
9 this Commission. Because we would like
10 to be able to give people valid answers
11 that they can count on.

12 Are there any other comments to
13 make before we vote on the motion before
14 us?

15 MALE COMMISSIONER: I just wanted to
16 clarify something. So if they demolish
17 this, which it sounds like it is
18 probably a danger to the public, aren't
19 they going to have to come back to us a
20 body to decide what they're going to
21 build on the property?

22 THE CHAIRPERSON: To build something
23 new, they would have to go through the
24 CA process, and it would have to be

1 approved. However, we cannot make them
2 build something. That's, I think, the
3 fear of the empty lot thing. That we
4 can only tell people whether they have
5 permission to build their exact proposal
6 or not. We cannot force anyone to build
7 a house.

8 MALE COMMISSIONER: Okay.
9 Understood.

10 THE CHAIRPERSON: Okay.

11 Are we ready to vote?

12 FEMALE COMMISSIONER: Madame Chair,
13 can somebody restate what was proposed
14 exactly so I can hear it? We've heard a
15 lot of words floating around. I just
16 want to --

17 THE CHAIRPERSON: Okay.

18 The motion was to approve the
19 certificate of demolition of the main
20 residential building in accordance with
21 the specifications dated 5/1/23
22 following staff recommendations.

23 FEMALE COMMISSIONER: Okay.

24 THE CHAIRPERSON: Okay.

1 I know this one is hard to
2 decide your vote on. Everyone needs to
3 decide.

4 MALE COMMISSIONER: Okay.

5 THE CHAIRPERSON: If you have more
6 to say, yes.

7 FEMALE COMMISSIONER: I have tad
8 more to say. And I won't drag this on.
9 This one is difficult, and I really
10 appreciate Commissioner Taylor saying
11 what he said. Because he lives in the
12 District along with Commissioner Swan.
13 The Tenth Street Historic District has
14 been in a fragile state for a long, long
15 time. We have just heard this morning
16 that money is available to survey the
17 District, and from that survey, there
18 would be some interesting outcomes and
19 hopefully some strong recommendations.

20 In the meantime with the 3000
21 square foot rule, the City because of
22 its 3000 square foot rule is largely
23 systematically demolishing Tenth Street
24 itself. So there are other standards

1 that could be met in the absence of a
2 plan to rebuild. I won't support the
3 motion, even though I feel Mr. Cooper's
4 pain. I know this is hard. But I'm
5 going to lean against not supporting.
6 Thank you.

7 THE CHAIRPERSON: Did you wish to
8 continue, Mr. Swan?

9 COMMISSIONER SWAN: Yeah.

10 The last thing I'm going to say
11 is I think there's a reasonable way, and
12 I think that Commissioner Taylor has
13 touched on it. I think, if I understand
14 it correctly, and correct me if I'm not,
15 he is saying the condition of this house
16 is -- it is similarly fragile like many
17 of the other structures in the district,
18 and we could go one by one by one and
19 demolish them all, but I -- the use of a
20 different standard and the presentation
21 of something, I think, gives the
22 neighborhood a lot more reassurance that
23 something is going to be there other
24 than a vacant lot.

1 THE CHAIRPERSON: All right.

2 COMMISSIONER SWAN: So for that
3 reason, I'm opposing this motion. I
4 hope another one can come back with a
5 different start.

6 THE CHAIRPERSON: As we move forward
7 to vote --

8 COMMISSIONER TAYLOR: What I'm
9 trying -- I think what I am trying to
10 say is that I think the (inaudible) path
11 for the applicant to achieve what they
12 ultimately want to achieve, I just don't
13 think that this path that they set forth
14 today with the health -- the safety
15 issue of the home is the path to achieve
16 that.

17 THE CHAIRPERSON: I understand.

18 And I think that all of us have
19 our reasons why we are trying to think
20 of which way way want to go on this.

21 So we are going to call for the
22 vote. We're going to remember that what
23 we are voting on, does this meet these
24 three standards that prove it's a

1 danger. If it doesn't, we can deny the
2 application for demolition. If it does
3 meet those three standards, we should
4 approve it to keep people from getting
5 hurt.

6 Other ideas in our head about
7 what we hope for in the future and such
8 are not an official part of this, but
9 obviously they're in our head while we
10 make our decision. I also want to note
11 our applicants, however this goes, I
12 really appreciate your desire to pass
13 onto your children the ability to love
14 the neighborhood, which your ancestors
15 lived. We want that to happen too.
16 Because that is the most important thing
17 that can happen in a historic district.

18 So I don't know which way this
19 vote is going. It's real hard to tell.
20 I'm now going to call for a vote. All
21 those in favor of this motion, please
22 say aye.

23 COMMISSIONER OFFIT: Aye.

24 THE CHAIRPERSON: Is Mr. Offit the

1 only one who voted in favor of this
2 motion?

3 And -- okay, so we have three
4 votes. We're going to have the nays
5 raise their hands, and then do the roll
6 call thing just because it's so
7 important that we get this right.

8 All those opposed to this
9 motion, please say nay.

10 MULTIPLE SPEAKERS: Nay.

11 THE CHAIRPERSON: Okay.

12 Elaine will please do the roll
13 call vote for certainty.

14 FEMALE SPEAKER ELAINE: District 1,
15 Commissioner Sherman?

16 COMMISSIONER SHERMAN: Nay.

17 FEMALE SPEAKER ELAINE: District 2,
18 Commissioner Montgomery.

19 COMMISSIONER MONTGOMERY: Nay.

20 FEMALE SPEAKER ELAINE: District 3,
21 Commissioner Fogelman.

22 COMMISSIONER FOGELMAN: Yes.

23 FEMALE SPEAKER ELAINE: District 4,
24 Commissioner Swan?

1 COMMISSIONER SWAN: Nay.

2 FEMALE SPEAKER ELAINE: District 5,
3 Commissioner Offit.

4 COMMISSIONER OFFIT: For.

5 FEMALE SPEAKER ELAINE: District 6,
6 Commissioner Henajosa(ph).

7 COMMISSIONER HENAJOSA: Nay.

8 FEMALE SPEAKER ELAINE: District 8,
9 Commissioner Spellacy.

10 COMMISSIONER SPELLACY: Nay.

11 FEMALE SPEAKER ELAINE: District 10,
12 Commissioner Hidu(ph).

13 COMMISSIONER HIDU: For.

14 FEMALE SPEAKER ELAINE: District 11,
15 Commissioner Gibson.

16 COMMISSIONER GIBSON: Nay.

17 FEMALE SPEAKER ELAINE: District 12,
18 Commissioner Rothenberger.

19 COMMISSIONER ROTHERNBERGER: Nay.

20 FEMALE SPEAKER ELAINE: District 14,
21 Commissioner Guest?

22 COMMISSIONER GUEST: Nay.

23 FEMALE SPEAKER ELAINE: District 15,
24 Commissioner Velvin.

1 COMMISSIONER VELVIN: Nay.

2 FEMALE SPEAKER ELAINE: Commissioner
3 Taylor?

4 COMMISSIONER TAYLOR: Nay.

5 FEMALE SPEAKER ELAINE: And
6 Commissioner Cummings?

7 COMMISSIONER CUMMINGS: Nay.

8 FEMALE SPEAKER ELAINE: We have two
9 that's for it -- okay. So I have
10 Fogelman, Offit and Hidu. Oh, yes.
11 Okay. Three.

12 THE CHAIRPERSON: All right. So
13 this motion has failed. I need a new
14 motion. Commission Swan, are you --

15 COMMISSIONER SWAN: Yes.

16 THE CHAIRPERSON: -- going to make
17 the motion?

18 COMMISSIONER SWAN: Yes.

19 I move that we -- in the matter
20 of -- in the matter of 338, 1012
21 Betterton Circle, CD223-008RD, that we
22 deny without prejudice with a finding of
23 fact that it does not meet number 3 of
24 Section 51A-4.501H4C.

1 FEMALE COMMISSIONER: Second?

2 THE CHAIRPERSON: Any further
3 discussion on this one? Then we're
4 ready to vote on this one.

5 All those in favor of this
6 motion, please say Aye.

7 MULTIPLE SPEAKERS: Aye.

8 THE CHAIRPERSON: All those opposed
9 to this motion please say so?

10 COMMISSIONER OFFIT: Nay.

11 THE CHAIRPERSON: All right.

12 So those in opposition are
13 Commissioner Fogelman, Commissioner
14 Offit and Commissioner Hidu? Anybody
15 disagree with that?

16 All right. I don't think we
17 need another roll call because it's just
18 the same as the first one. And no one
19 is speaking that they voted differently.
20 That means this motion is carried.

21 This is a denial, Mr. Cooper,
22 not without prejudice, but it's still a
23 denial. You could for a fee appeal to
24 city planning commission, and their only

1 standard would be did we rule in error.
2 But you can also come back to us after,
3 and you can confirm with Dr. Dunn, who
4 I'm sure listened to every single word
5 we said, as is her job, and she loaves
6 us. And she would be happy to help find
7 a path to move forward.

8 We are all in support of seeing
9 a happy family home on this lot one way
10 or another. This was a difficult
11 decision. And we thank you for coming.

12 - - -

13 (Whereupon, the proceeding ended.)

14 - - -

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CERTIFICATE

I HEREBY CERTIFY that this transcript is a true record of the content on the file provided to me to the best of my ability.

Maureen Cunningham Brzycki

Maureen Cunningham Brzycki,

Dated: July 10, 2023

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