



Roll Call Number

19-1438

WITHDRAWN

Agenda Item Number

66A

Date September 9, 2019

RESOLUTION REMANDING THE DECISION OF THE HISTORIC PRESERVATION COMMISSION TO GRANT AN APPLICATION FOR CERTIFICATE OF APPROPRIATENESS SUBJECT TO CONDITIONS FOR PROPERTY AT 1308 9TH STREET AND ORDERING ADVERTISING OF NOTICE TO POTENTIAL PURCHASERS.

WHEREAS, on May 16, 2019, Mr. Mitch Coluzzi submitted an application for a Certificate of Appropriateness (COA) to the Historic Preservation Commission (HPC) seeking authority to allow the demolition of fencing and the carriage house at 1308 9th Street; and,

WHEREAS, on June 19, 2019, the HPC approved the portion of the request pertaining to fencing and continued the hearing on the carriage house to the July 17, 2019 meeting and further requested that staff coordinate a tour of the property before the July meeting for interested Commissioners; and,

WHEREAS, on July 10, 2019, several Commission Members and Jason Van Essen, Senior City Planner, toured the property with Mr. Coluzzi; and,

WHEREAS, on July 17, 2019, the HPC concluded the continued hearing and issued COA 20-2019-9.15 allowing the demolition of fencing and denying the request to demolish the carriage house; and,

WHEREAS, the HPC identified that the carriage house is identified as a "Contributing Structure" by the district's National Register nomination and found that it is repairable and should be retained to support the historic integrity of the historic district; and,

WHEREAS, section 58-31 of the City's Historical Preservation Ordinance provides a process to be followed prior to the issuance of a COA for the demolition of a building defined by the district's National Register nomination as either a pivotal or contributing structure.

Sec. 58-31. Certificate of appropriateness required.

(d) When an application involves the proposed demolition of a building which is defined by the district's National Register nomination to be either a pivotal or contributing structure, the commission shall not issue a certificate of appropriateness until the following conditions have been satisfied:

(1) The city shall advertise that the owner will entertain offers from any person or governmental agency desiring to purchase such building and the lot upon which it stands, provided the prospective purchaser agrees to preserve and rehabilitate the building in accordance with the recommended procedures in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

(2) When it has been determined by the commission that such building must be moved to mitigate adverse impact, in lieu of the requirements of subsection (d)(1) of this



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section, the city shall advertise that the owner will entertain offers from any person or governmental agency desiring to purchase such building, provided the prospective purchaser agrees to cause such building to be moved by a professional mover in accordance with the recommended approaches in the Department of the Interior's "Moving Historic Buildings."

- (3) *The city shall publish such advertisement in a newspaper of general circulation within the city, in both a legal notice and a classified advertisement, once a month for three months for contributing structures and once a month for six months for pivotal structures.*
- (4) *Upon the affirmative vote of a majority of the full membership of the commission, the advertising requirements of this subsection (d)(3) of this section may be waived when such waiver is determined to be in the public interest.*

If the conditions of this subsection have been satisfied and no entity has purchased the building for the purpose of rehabilitating or moving it, the commission shall consider the demolition proposal at its next regularly scheduled meeting.

WHEREAS, Mr. Coluzzi, the owner of the affected property, has appealed the Commission's decision to the City Council pursuant to Section 303.34(3) of the Iowa Code and Section 58-31(f) of the Des Moines Municipal Code and seeks to have the decision reversed, removing the conditions; and

WHEREAS, on August 19, 2019, by Roll Call No. 19-1317, it was duly resolved by the City Council that the appeal be set down for hearing on September 9, 2019 at 5:00 p.m. in Council Chambers; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on August 28, 2019 and due notice was provided to the applicant-appellant; and

WHEREAS, in accordance with the notice, those interested in the issuance of the Certificate of Appropriateness, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council; and

WHEREAS, City Staff recommends that the City solicit proposals for the purchase and renovation of the property including the carriage house or proposals for the relocation and preservation of the carriage house to a different property; and then resubmitting the issue to the HPC following the close of the advertisement period; and,

WHEREAS, Section 303.34(3) of the Iowa Code and Section 58-31(f) of the Des Moines Municipal Code provide that on an appeal from action of the Historic Preservation Commission, "the city council shall consider whether the commission has exercised its powers and followed the guidelines established by law and ordinance and whether the commission's action was patently arbitrary or capricious."



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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. The public hearing on the appeal is hereby closed.
2. The City Council hereby finds that the Commission was unreasonable in deciding not to order that an advertisement be placed pursuant to Municipal Code section 58-31 to determine interest in potentially purchase or moving the property prior to deciding to deny the application for a Certificate of Appropriateness.
3. The City Council REMANDS Case Number 20-2019-9.15 to the Commission and directs staff to solicit proposals for the purchase and renovation of the property including the carriage house or proposals for the relocation and preservation of the carriage house to a different property pursuant to Municipal Code section 58-31 and then reconsider the application following the advertising period.

Moved by _____ to adopt.

(Council Communication No. 19- 390)

APPROVED AS TO FORM:

Thomas G. Fisher Jr.

Thomas G. Fisher Jr.
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk