



Legislation Details (With Text)

File #: 22-0749R **Name:**

Type: Resolution **Status:** Passed

File created: 9/1/2022 **In control:** Planning and Economic Development

On agenda: 9/12/2022 **Final action:** 9/12/2022

Enactment date: **Enactment #:**

Title: RESOLUTION REVERSING THE HERITAGE PRESERVATION COMMISSION'S DECISION TO DENY A CERTIFICATE OF APPROPRIATENESS FOR THE DEMOLITION OF THE STRUCTURE AT 102-108 EAST SUPERIOR STREET.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment 1.pdf, 2. Attachment 2.pdf, 3. Attachment 3.pdf, 4. Attachment 4.pdf, 5. Attachment 5.pdf, 6. Attachment 6.pdf, 7. Attachment 7.pdf, 8. Attachment 8.pdf

Date	Ver.	Action By	Action	Result
9/12/2022	1	City Council	adopted	Pass

RESOLUTION REVERSING THE HERITAGE PRESERVATION COMMISSION'S DECISION TO DENY A CERTIFICATE OF APPROPRIATENESS FOR THE DEMOLITION OF THE STRUCTURE AT 102-108 EAST SUPERIOR STREET.

CITY PROPOSAL:

RESOLVED, that the city council finds and concludes as follows:

- (a) That on May 18, 2022, ZMC Hotels, through its agents Veit & Company, Inc. and North Creek Investors II, LLC, submitted an application (Heritage Preservation Commission File No. "PL 22-090") for a Certificate of Appropriateness for the demolition of its structure at 102 to 108 East Superior Street; and
- (b) According to the "Historic Resources of Downtown Duluth, Minnesota, 1872-1933," submitted to the National Register of Historic Places in 2005, this structure was constructed in 1905, and was known as Duluth Marine Supply, but it now is commonly known to citizens as the old Astoria Hotel, as well as the Old Town Antiques, Chinese Dragon, and the Bullseye Building; and
- (c) This structure has, since 2006, been listed on the National Register of Historic Places as a contributing structure to the Duluth Commercial Historic District; and
- (d) Under Minn. R. 4410.4300, Subp. 31, which is an Environmental Quality Board regulation implementing Minn. Stat. § 116D.01 et seq., demolition of the structure is not allowed unless there is an environmental assessment worksheet (EAW) or unless an exception to the EAW requirement is shown. One such exception is review by a certified heritage preservation commission; and
- (e) No environmental assessment worksheet has been prepared; and
- (f) That pursuant to Section 50-37.14 of Chapter 50 of the Duluth City Code, as amended, such application for Certificate of Appropriateness for a demolition was duly referred to the heritage preservation commission, which is appropriately certified, and such commission gave due notice of public hearing to be held by the commission on June 13, 2022; and

(g) That pursuant to Section 50-37.14 of Chapter 50 of the Duluth City Code, the heritage preservation commission shall approve an application for an historic demolition permit if the commission “determines that the application complies with all applicable provisions of [Chapter 50] and state law and that the work to be performed shall not adversely affect the historic preservation landmark or district based on adopted historic preservation guidelines”; and

(h) That the heritage preservation commission, at a Monday, June 13, 2022 regular meeting, duly conducted a public hearing, and after considering public testimony and information from the applicant, tabled the item for more information. At a following meeting on Monday, July 11, 2022, the heritage preservation commission reviewed the application and denied the certificate of appropriateness for the demolition of 102 to 108 East Superior Street for the following reasons: it would adversely impact the Duluth Commercial Historic District and would not be best for the community; the applicant has no clear or definitive plans to reuse the site; the applicant did not provide sufficient information establishing the rehabilitation costs to bring the structure back up to code and allow it to be reused; and the structural engineering report submitted by the applicant was not sufficient to determine if rehabilitation of the structure was worth it from a historical perspective; and

(i) That on July 15, 2022 the city received a notice of appeal from North Creek Investors II, LLC, a copy of which is attached as Attachment 7, requesting the city council reverse the heritage preservation commission’s denial of its application; and

(j) That the city council heard the appeal at its September 12, 2022 meeting; and

(k) That the council finds that the proposed demolition would not adversely affect the historic preservation landmark or district based on adopted historic preservation guidelines because the Duluth Commercial Historic District is comprised of over 100 structures over 20 blocks, and the removal of this structure will not adversely affect the district; and

(l) That the council finds that the applicant’s lack of a plan to immediately reuse the site is not germane to the request to demolish the structure and should not be used as a reason for denial of the application; and

(m) That the council finds that the applicant has supplied sufficient information from Northland Consulting Engineers to support the determination that the structure is in a substantially deteriorated structural condition, and bid information from Johnson Wilson Construction to support the determination that the cost to bring the structure up to current building and fire code significantly outweighs the market value of the structure and that the structure cannot be rehabilitated with reasonable efforts; and

(n) That the council finds that the applicant has supplied sufficient information to support the determination that the structure poses a safety risk and a sanitary risk to the public and that there is no feasible and prudent alternative to demolition; and

(o) That for the foregoing reasons in paragraphs (k) through (n), the council finds that granting the certificate of appropriateness to demolish this structure complies with all applicable provisions of the City Code and state law.

FURTHER RESOLVED, that the applicant's appeal of the decision of the heritage preservation commission denying the certificate of appropriateness is granted, the decision of the commission denying the certificate of appropriateness is reversed, and the application is hereby approved.

STATEMENT OF PURPOSE: This resolution reverses the denial for the certificate of appropriateness for the demolition of 102 to 108 East Superior Street. Reversing the heritage preservation commission’s decision would allow the applicant to demolish the structure.

If the appeal is granted, the applicant would still need to receive a wrecking/demo permit from the City of

Duluth's Construction Services and Inspections department, and follow all applicable rules and requirements related to the demolition of the structure, such as site control (traffic/safety), site stabilization (stormwater runoff), and protecting adjacent city infrastructure (water/sewer, Superior Street, and the adjacent elevated pedestrian walkway to the park). The applicant could be required to preserve any important historic façade elements of the structure.

The structure was most recently purchased in 2019 for \$1,650,000, and has a 2021 estimated market value (St. Louis County) of \$695,000. The structure has been vacant since May 2022.

This item was heard by the heritage preservation commission at their June 13, 2022 and July 11, 2022 meetings. The heritage preservation commission voted 3 yeas, 1 nay, and 1 abstention to deny the certificate of appropriateness that would allow the demolition of 102 to 108 East Superior Street

Complete Application Received: May 18, 2022

City Council Appeal Received: July 15, 2022

City Council Action Deadline under Minn. Stat. § 15.99: September 15, 2022