

Memo to: Mayor and City Council  
CC: Ben Martig, City Administrator  
Dave Bennett, City Engineer  
Mitzi Baker, Community Development Director  
Mikayla Schmidt, City Planner  
Revee Needham, Assistant City Planner

March 10, 2022

From: Historic Preservation Commission

Re: Certificate of Appropriateness in Historic District

With this memo, the Historic Preservation Commission would like to:

- 1) explain our interpretation of the Land Development Code (LDC) regarding the use of a Certificate of Appropriateness (CoA) for proposed changes in the Historic District; the HPC disagrees with staff's interpretation that the City is automatically exempt; and
- 2) Support the staff proposal that the City Council review and approve amendments to the ordinance to provide clarity related to a Certificate of Appropriateness; and
- 3) share our a) suggestions for the next steps to complete the Bridge Square project, and b) suggestions for the process for future projects. A draft of the process for future projects as well as possible LDC clarifying revisions can be completed later after Council's ordinance amendments.

**Basis for HPC Interpretation.**

In the enclosure are all excerpts from the LDC that address the CoA. The most applicable in this case are paraphrased below [bold added for emphasis]:

- Section 2.5.3(c) indicates no activity on a heritage preservation site can be made in the Historic District without an approved CoA "pursuit to Section 8.5.8",
- Section 8.5.8 indicates that in the Historic District the CoA must be issued before any construction, rehabilitation, moving or demolition "unless otherwise exempted in Section 7.8.3"
- Section 7.8.3 indicates that the City **may** be exempt from LDC regulations when "carrying out a governmental function, activity, or implementation of essential services", and, if exempt, **"are encouraged to meet the requirements of this LDC to the maximum extent possible."**

The LDC indicates that the city "may" be exempt in some cases. The HPC interprets the above possible exemption as applying to unique cases that might be time sensitive or have a site condition that the City's complying with the LDC to issue a CoA would make it impossible, too expensive, or another hardship in carrying out a function or implementing "essential services".

A special condition or hardship for the City to pursue a CoA in this case has not been clarified. The HPC is not aware of the project process as being time sensitive or of any hardship for the City which would interfere with their meeting "the requirements of this LDC to the maximum extent possible". We believe that meeting the requirements of the LDC would include the HPC's review for a CoA in the process. The HPC believes the intent of the LDC in this case is for the City government as owner of the property to bring forward a Certificate of Appropriateness to the HPC for review based on rehabilitation guidelines.

### **Next Step in Review Process for Bridge Square**

The HPC has preservation authorization from and responsibilities to the local government (LDC) as well as to the state through the Minnesota Historic Preservation Office (Minnesota Statute 47119), and is to follow guidelines for the treatment of National Historic Places from the U.S. Department of Interior.

For “cultural landscapes”, under which Bridge Square is categorized, those National Guidelines include direction to “identify those landscape features and materials important to the landscape’s historic character and which must be retained”, and specify that “guidance on identifying, retaining and preserving character defining features is always given first”. The point at which that first step could have been completed is long past.

It is not, however, too late for a Certificate of Appropriateness. The HPC disagrees with staff’s interpretation that a Certificate of Appropriateness is not required. Once more details are added to the drawings and are incorporated into text, the CoA can be reviewed by the HPC, possibly expedited by a special meeting if needed. It is the responsibility of the HPC to protect the integrity of Bridge Square, thus keeping it on the national register of historic places and contributing to our historic downtown.

### **Future Review Process of City Owned Historical Property.**

A planning process procedure for rehabilitation of city owned historical property is a necessary tool for the future. Although creating the steps may take some time and effort, a clear process will prevent false-starts, save consulting fees, retain public confidence, and help assure that the integrity of our Historic District is maintained. Based on the lessons learned in this Bridge Square project, the HPC recommends the following:

- Create a clear step-by-step process for planning, and approving treatment of city owned historical properties.
- In cases of cultural landscapes, include a first step of the consultants working with the HPC prior to project planning to identify “character defining features”
- Require a CoA, unless there are extenuating circumstances (examples and definitions to be identified and possibly included in a LDC amendment).
- Clarify a CoA is applicable in cases of cultural landscapes that may not require a building permit.

The HPC looks forward to your consideration of these matters and is interested in providing additional information as needed. Thank you for your attention to this matter.

Enclosure: *Excerpts of LDC regarding Certificate of Appropriateness*