

**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Upper Bee Branch Creek Restoration Project  
429 Rhomberg Stabilization Project  
(CIP #3401654)

**DATE:** September 26, 2014

City Engineer Gus Psihoyos is recommending approval of the plans, specifications, form of contract and the estimated cost of \$255,881 for the 429 Rhomberg Stabilization Project to be considered at the public hearing.

The Bee Branch Creek Restoration Project requires a permit from the U.S. Army Corps of Engineers (USACE). The issuance of a federal permit constitutes a federal action. Therefore, the Bee Branch Creek Restoration Project must meet the federal requirements set forth in 36 CFR Part 800, Section 106 (Section 106). The stated goal of Section 106 is to assure that “no unnecessary harm comes to historic properties as a result of a federal action.”

In 2009, Architectural Historian James Jacobsen evaluated 429 Rhomberg and concluded that it meets the criteria for being listed on the National Register of Historic Places due to distinctive architectural characteristics. According to the U.S. Department of the Interior National Park Service, the National Register of Historic Places is “the official list of the Nation's historic places worthy of preservation.”

Due to the potential effect on historic buildings such as 429 Rhomberg, the Bee Branch Creek Restoration Project could not move forward until procedures, stipulations, and acceptable mitigation measures were established to take into account those potential effects. This was accomplished through the execution of a Programmatic Agreement (PA) among the U.S. Army Corp of Engineers, the Iowa Department of Natural Resources, the State Historic Preservation Officer, and the City of Dubuque as authorized by the City Council in April of 2010.

Per the terms of Programmatic Agreement, the City of Dubuque is obligated to protect 429 Rhomberg from both direct and indirect adverse effects that can be reasonably foreseen due to the construction of the Bee Branch Creek Restoration Project. Further,

the City is obligated to develop treatment measures to minimize and/or mitigate those effects.

City staff inspection of 429 Rhomberg revealed that there are structural issues with the building. Of specific concern was the roof and parapet. The parapet was specifically mentioned in the architectural historian's report that established the historic significance of the building. Because the Bee Branch Creek Restoration Project involves driving support structures for a bridge within 50 feet of 429 Rhomberg, it is "reasonably foreseeable" that the vibration to occur during construction of the bridge will adversely impact 429 Rhomberg. Therefore, per the Programmatic Agreement the City is obligated to devise treatment measures to minimize the effect that construction will have on the building.

When City staff approached the property owner to discuss the condition of the building and potential, preventative stabilization measures, the owner informed the City that they were open to selling 429 Rhomberg, along with 427 Rhomberg and the two vacant lots to the west. The primary benefit of purchasing 429 Rhomberg is that it would allow the City complete control over the building before and during the construction activity in the vicinity of the property. Owning the property expands the City's options when it comes to stabilize and protect the building from damage otherwise all city actions would have to be done through a potentially cumbersome agreement with a third party. In either case, it would prove costly and it would delay completion of the project if the City waits to stabilize and protect the building until damage starts to occur as a result of the construction activity associated with the Bee Branch Creek Restoration Project. This would force the City's contractor to cease construction while stabilization measures are designed, approved, and implemented. Therefore, it was in the best interest of the city to acquire 429 Rhomberg, and as a condition of the sale 427 Rhomberg and the two vacant lots to the west. It is also in the best interest of the City to stabilize the building prior to construction of the Bee Branch Creek Restoration Project.

Unfortunately, the City has experience with a similar situation when the 4<sup>th</sup> Street Parking Ramp was constructed. During the construction process some of the historic structures in the 300 block of Main Street were cracked, resulting in years of litigation and hundreds of thousands of dollars in costs. On the Bee Branch Project, the City is trying to do a better evaluation of potential risks and methods to mitigate those risks.

On November 18, 2013, the City Council authorized the acquisition of 427-429 Rhomberg for \$130,000.00 thought to be less than the actual value of the property based on the appraised value of similar property in the area.

In addition to issues with the roof and parapet, 429 Rhomberg which had already been vacant for several months is to remain vacant during construction of the Bee Branch Creek Restoration Project. Therefore, in order to protect the City's investment, it is prudent to close up the building temporarily to protect it from the weather as well as to secure it from vandalism. Therefore, it is in the best interest of the City to protect its

investment, prevent deterioration of the building, until it is redeveloped following construction of the Bee Branch Creek Restoration Project.

427 Rhomberg is another matter. While considered by itself, it was not determined to be a historic property worthy of preservation. Because the redevelopment of 429 Rhomberg would be better served by removing 427 Rhomberg, it is in the City's best interest to deconstruct 427 Rhomberg.

The Project involves the removal (deconstruction) of the steel sided building addition and to stabilize or otherwise "mothball" the original 3-story masonry building to a weatherproof condition that can be maintained until such time when it will be fully developed following construction of the Upper Bee Branch Creek Restoration Project. The stabilization will be done in conformance with the U. S. Department of the Interior's guidelines to ensure the building retains its eligibility for historic rehabilitation tax credits.

The work includes masonry repair and tuckpointing, a complete roof membrane and insulation system removal and replacement, temporary existing opening wall infill, and other selective building envelop repair. The work also includes removal and salvage of the existing metal cornice at the top of the parapet, and steel fire escapes and ladders for potential future restoration and reinstallation.

Finally, the work includes the deconstruction and removal of 427 Rhomberg, the attached, adjacent building to the west, and the infill of the common wall that currently exists between the two buildings.

Planning Services Manager Laura Carstens has provided a thorough explanation of the designation of 429 Rhomberg as an Individually National Register Eligible property with local significance because of its distinctive architectural characteristics.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:jh

Attachment

cc: Barry Lindahl, City Attorney  
Cindy Steinhauser, Assistant City Manager  
Teri Goodmann, Assistant City Manager  
Gus Psihoyos, City Engineer