

**TO:** Michael C. Van Milligen, City Manager  
**FROM:** Gus Psihoyos, City Engineer   
**DATE:** December 19, 2014  
**SUBJECT:** Bee Branch Creek Restoration Project, Property Acquisitions, Deconstruction of 400 E. 22<sup>nd</sup> Street

### **INTRODUCTION**

The purpose of this memorandum is to seek City Council approval to deconstruct 400 E. 22<sup>nd</sup> Street as required for the construction of the Bee Branch Creek Restoration Project (Project).

### **BACKGROUND**

In April of 2010 the City Council adopted Resolution 92-10 authorizing the City to enter into a Programmatic Agreement (PA) among the U.S. Army Corp of Engineers (USACE), the Iowa Department of Natural Resources (IDNR), the State Historic Preservation Officer (SHPO), and the City of Dubuque regarding the construction of the Bee Branch Creek Restoration Project.

The PA outlines the manner in which the City can proceed with the Bee Branch Creek Restoration Project in accordance with the requirements set forth in 36 CFR Part 800, Section 106 (Section 106 Process) which ensures that no unnecessary harm comes to historic properties.

As part of the PA, the City was required to "ensure the appropriate studies are conducted to identify the presence of historic properties." To that end, the City relied on the expertise of architectural historian James Jacobsen of History Pays. Mr. Jacobsen determined that the Washington Street and E. 22<sup>nd</sup> Street Neighborhood District had the potential of being listed on the National Register of Historic Places. 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."

On February 28, 2011 the Washington Street and E. 22<sup>nd</sup> Street National Register Historic District was listed on the National Register of Historic Places. The former Weis Grocery building located at 400 E. 22<sup>nd</sup> Street is one of the contributing properties to the district. The building is two stories with 2,050 square feet in the original portion and another 940 square feet as part of a dilapidated addition that would have been removed under any scenario.

The Four Mounds Foundation (Four Mounds) acquired the mortgage for the former Weis Grocery at 400 East 22nd Street. Then owner, Ms. Janice Weis, passed away in early 2011.

Following the passing of Ms. Weis, the Dubuque Humane Society was brought in to remove more than 60 cats found inhabiting the building. Cat urine and feces were found throughout; significant portions of the flooring, floor joists, and walls were completely soiled. Four Mounds removed non-structural, interior walls in an attempt to eliminate the odor and ready the building for potential reuse. The strong odor of cat urine still emanates from remaining elements such as the wood flooring.

In addition to the deterioration of the building interior, there are structural issues with the building as well. There are multiple, severe separation cracks in the limestone block foundation and in the masonry walls. These cracks are visible from both the interior and exterior of the building.

The Bee Branch Creek Restoration Project involves extensive construction on three sides of the building at 400 E. 22<sup>nd</sup> Street: numerous piles will be driven for the proposed 22<sup>nd</sup> Street Bridge within fifty feet of the building, storm sewer reconstruction to a depth of fifteen feet is necessary within five feet from the building, street replacement is required within five feet of the building, and sidewalk replacement is required right up to the building foundation.

Because of the existing condition of the building and because construction of the Bee Branch Creek Restoration Project would further contribute to the dilapidated nature of the building, it was in the best interest of the City to acquire the property.

In January of 2014, the City Council adopted Resolution 20-14 approving the City's acquisition of 400 E. 22<sup>nd</sup> Street from Four Mounds per the terms of the Offer to Buy Real Estate and Acceptance for the asking price of \$46,685.59. The City acquired the property on January 30, 2014.

## **DISCUSSION**

The historic significant of 400 E. 22<sup>nd</sup> Street is tied to its relationship to the other buildings within the Washington Street and E. 22<sup>nd</sup> Street National Register Historic District. Because removal of the building would not change the districts eligibility and continued status as being listed on the National Register of Historic Places, the USACE, SHPO, and IDNR left it to the discretion of the City as to what to do with the building.

Three options were investigated. The City could attempt to stabilize the building in place, stabilize and move the building farther away from Elm Street and E. 22<sup>nd</sup> Street, or completely deconstruct the building.

### **Stabilize in Place**

The feasibility of stabilizing the structure in place is suspect due to the extensive, disruptive construction activity to take place within five feet of the structure in its present

location. Setting that aside, the cost to stabilize the structure in its present location is estimated to be \$80,000. Additional work would be required to prepare the building for reuse such as providing a new storefront, new windows, new doors, and interior build-out. A rough estimate of this cost is \$180,000. Therefore, the estimated cost to stabilize and renovate the building for future use in its present location is \$260,000. Even at this level of expense with all the damage done by over 60 cats, it is questionable if there is a future reuse for the building.

#### Move and Stabilize

While technically more feasible, stabilizing and moving the building would be cost prohibitive. The estimated cost is in excess of \$230,000. And again, it would be another \$180,000 for subsequent renovations to ready the building for reuse. Therefore, the estimated costs to move, stabilize, and renovate the building for future use is \$410,000.

#### Deconstruct

The estimated cost associated with deconstructing the building ranges from \$20,000 to \$80,000. However, if the building is deconstructed it eliminates the need for tight-sheeting that would otherwise be required in order to perform the storm sewer construction work adjacent to the building. This could result in up to \$40,000 in construction savings. And although harder to quantify, there would be additional savings in that the removal of the building would eliminate risk to the contractor hired to build the Bee Branch Creek Project.

In April of 2015, a presentation was made to the Historic Preservation Commission regarding the 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 to specifically address historic properties affected by the Bee Branch Project. As proposed, the expansion of the Washington Neighborhood Conservation District excluded properties acquired for the Bee Branch Creek Restoration Project. The Historic Preservation Commission recommended adopting the ordinance as proposed at their January 2011 meeting with the knowledge that historic properties associated with the Bee Branch Creek Restoration Project were already covered under the terms of the PA. Therefore, deconstruction of 400 E. 22<sup>nd</sup> Street does not require additional consultation with the Historic Preservation Commission.

The Offer to Buy Real Estate and Acceptance approved by the City Council outlined that "if (the City) demolishes, deconstructs, or rehabilitates the Real Estate that it will provide (Four Mounds) with an opportunity to perform such work for (City) that is within the scope and capabilities of Four Mounds through its HEART Program." Therefore, City staff is in the process of trying to determine how Four Mounds through its HEART Program can assist with the deconstruction of the building.

The City recently issued a contract in the amount of \$170,750.00 to stabilize 429 Rhomberg Avenue. There are similarities between 400 E. 22<sup>nd</sup> Street and 429 Rhomberg Avenue: both contribute to the historic significance of a neighborhood district, both have noted structural issues, and both would likely be negatively impacted

by the construction activity associated with the Bee Branch Project. But there are significant differences which dictate why one is to be stabilized and one should be deconstructed.

The paramount difference is the relationship of the buildings to the construction limits of the Project and thus the applicable terms on how to deal with each as outlined in the PA.

- 429 Rhomberg Avenue is outside the construction limits of the Project. Therefore, per the terms of the PA, “the City shall ensure that (429 Rhomberg) will be protected from both direct and indirect adverse effects produced by (the Project).”
- 400 E. 22<sup>nd</sup> Street is within the construction limits of the Project and the extensive adverse impacts anticipated during construction cannot be avoided due to the engineering requirements of the project. Therefore, per the terms of the PA the USACE, SHPO, and IDNR left it to the discretion of the City as to what to do with the building provided the City performs the mitigation actions outlined in the PA.

Another difference is that the structural integrity and general condition of 429 Rhomberg was far superior to that of 400 E. 22<sup>nd</sup> Street. As mentioned, the future use of 400 E. 22<sup>nd</sup> Street is highly questionable due to its present condition.

### **RECOMMENDATION**

I recommend that the City deconstruct 400 E. 22<sup>nd</sup> Street.

### **BUDGET IMPACT**

The deconstruction work will be completed using funds established for the \$200 million Bee Branch Watershed Flood Mitigation Project.

### **REQUESTED ACTION**

I respectfully request City Council approval to deconstruct the building at 400 E. 22<sup>nd</sup> Street in order to proceed with the Bee Branch Creek Restoration Project.

Encl.

Prepared by Deron Muehring

Cc: Barry Lindahl, City Attorney  
Laura Carstens, Planning Services Manager  
Steve Brown, Project Manager  
Deron Muehring, Civil Engineer II