To: City Commission                                      Agenda Date: 10/21/2020
From: City Manager Tony Konkol

SUBJECT:


STAFF RECOMMENDATION:

Staff recommends the City Commission take testimony and instruct staff to proceed with the demolition of the Camp Adair buildings pursuant to the 2017 decision revoking consent. If public testimony is received, the City Commission’s decision may be tentative with adoption of written findings to follow on November 4, 2020.

EXECUTIVE SUMMARY:

This is the second time that the City has received a request for local designation of historic landmarks for the Community Cannery & Workshop Annex Camp Adair buildings located at 122 and 220 S. John Adams Street. After the first application was filed in 2017, the City Manager withheld property owner consent so that no further designation action could not be considered. After an appeal and remand from the Land Use Board of Appeals, the City Commission supported and refined the position. The Commission’s decision was affirmed by LUBA, the Court of Appeals and the Oregon Supreme Court denied review. The new designation application for local designation is identical, except for the name of the applicant. Staff is seeking direction from the City Commission about how it would like to proceed.

BACKGROUND:

In 2004, the City completed an historic inventory of the buildings located within the City’s Public Works Operations Center, including two buildings on the upper campus, then known as the Cannery and Warehouse buildings. The inventory concluded a determination that these buildings were not eligible for designation on the National Register of Historic Places either because they “lacked distinction” or they had been “altered.”
On March 2, 2017, the McLoughlin Neighborhood Association filed an application to designate the Cannery and Warehouse buildings as historic landmarks on the City's local historic inventory. The application provides that these buildings were suitable for designation because of new information - their association with Camp Adair, a US Army World War II training facility, located near the City of Corvallis.

Upon receiving the request, the City researched the eligibility of the structures and received communications from a Historian with the State Historic Preservation Office indicating that, notwithstanding this new information, these buildings would be ineligible for listing in the National Register of Historic Places. A letter from Restore Oregon confirmed this result.

On April 18, 2017, the City Manager Tony Konkol issued a letter refusing to consent to the historic designation of these two buildings pursuant to ORS 197.772(1). Attached to the City Manager's letter was a memorandum to the HRB explaining that the City had previously created and approved a Master Plan for the property to improve services for the public. In order to achieve that goal, the Camp Adair structures were proposed to be removed. The memorandum included consideration for the designation of the structures and indicated that the City would attempt to find a suitable place to relocate the buildings and if the structures could not be relocated, they would be deconstructed. At its April 25 hearing, the HRB received a briefing on the historic nomination for the Camp Adair buildings including a presentation by staff and public comments from MNA's attorney. Consistent with ORS 197.772, the application was removed from any further consideration by the HRB. On April 27, city staff mailed notice to MNA that the HRB would be taking no further action to consider the request.

MNA appealed Mr. Konkol’s April 18th letter as well as the HRB’s failure to take action on the application to LUBA. Before LUBA, MNA raised the following issues: (1) whether a local government is entitled to withdraw consent for a historic designation under ORS 997.772(1); (2) whether Oregon City waived the right to refuse consent; (3) whether the City Manager had authority to withdraw consent under the City Charter; and (4) that the HRB had an obligation to hold a hearing and make a decision on the substance of the application consistent with the City’s hearing requirements set forth in Oregon City Municipal Code 17.50.

LUBA agreed with MNA, in part. LUBA found that the City should have addressed items 2 and 3 in the list above. First, the City must consider whether it waived its right to refuse consent for historic designations under ORS 197.772(1) by delegating authority to designate resources to the HRB. Second, the City must consider whether the city manager had authority under the city charter to refuse to consent. LUBA did not make any ruling on whether public property owners are entitled to withdraw consent under ORS 197.772(1). As a result, the City Commission should make a decision on the scope of ORS 197.772(1) as well.

The City Commission held a public hearing to resolve the issues raised in LUBA’s opinion in MNA v. City of Oregon City, LUBA Nos. 2017-052/054 on November 15,
2017. On December 6, 2017, the City Commission adopted findings which included conclusions that Oregon City had not waived the right to refuse consent and that the City Manager had the right to withdraw consent. This decision was affirmed by LUBA, the Court of Appeals and the Oregon Supreme Court declined review.

On October 9, 2020, James Nicita filed an application to once again designate the Cannery and Warehouse buildings as historic landmarks on the City’s local historic inventory. Staff is asking the City Commission to clarify the City Commission’s position regarding processing the application for local designation of the Cannery and Warehouse structures.

OPTIONS:

1. Take no further action relying on the previous decision to revoke consent to designation.
2. Adopt a formal decision revoking consent to this particular designation request triggering 120-day demolition delay.
3. Provide consent for local designation and instructing staff to schedule the matter for hearing before the HRB.

BUDGET IMPACT:

Amount: Unknown
FY(s):
Funding Source(s):