

SUBSTITUTE

188603

ORDINANCE NO.

*Waive certain zoning code standards addressing use, street-facing facades, and timing of Historic Resource Review to authorize relocation and placement of the Morris Marks House on property located northwest of the intersection of SW Broadway Street and SW Grant Street and maintain Historic Landmark status for the structure (Ordinance; waive Code Section 33.120.100.A, 33.120.232.B.1 and 33.445.140.A .)

Section 1. The Council finds:

1. The Morris Marks House (also known as the Fried-Durkheimer House), located at 1126-1134 SW 12th Avenue (Exhibit A), is a rare example of Italianate architecture in Portland. Originally constructed as a single-dwelling home, the Morris Marks House was designed by Portland architect Warren Heywood Williams. The house was constructed in 1880 for a Portland shoe merchant of Polish decent, Morris Marks. Portland is home to a second Morris Marks House as well. That house is a larger Italianate style home which was built for Marks in 1882. This ordinance addresses the smaller Morris Marks House constructed in 1880.
2. The Morris Marks House at 1126-1134 SW 12th Avenue was designated a City of Portland Historic Landmark on July 16, 1980.. Special features and materials identified in the listing include the low-pitched hip roof, wide overhanging roof cornice with alternating large and small curvilinear brackets and decorative paneling, drop siding with quoins, two-story polygonal bay windows, and one-bay entrance porch with cylindrical columns and flat pilasters. Other special features include segmental-arched, one-over-one double-hung windows with pronounced decorative keystones, glass-paneled double entrance doors with transom as well as decoration including fluting, piecework, and both carved and molded woodwork.
3. Historic Landmarks designated by the City of Portland are not subject to Demolition Review, but are subject to a 120-day demolition delay.
4. While residential in appearance from the exterior, the Morris Marks House has been unoccupied for a number of years.
5. Although, the owner of the property at 1126-1134 SW 12th Avenue has no immediate plans to develop the site, retention of the Morris Marks House is not envisioned as part of any redevelopment effort. The site is depicted in Exhibit A and will herein be referred to as the Sending Site.
6. In preparation for the eventual development of the Sending Site property, the Morris Marks House will need to be removed from the site, either through demolition or relocation to another site.
7. Karen Karlsson and Rick Michaelson (Applicants) have been involved in other recent efforts to save historic structures slated for demolition and are arranging to buy the Morris Marks House.

8. The Applicants are working with the City of Portland Water Bureau to purchase a small, vacant triangular lot located northwest of the intersection of SW Broadway Street and SW Grant Street also referred to as Tax Account #R128726. The site is depicted in Exhibit B and will herein be referred to as the Receiving Site. The Morris Marks House would be relocated to the Receiving Site. The Receiving Site is located approximately 3,200 feet south of the Sending Site.
9. Zoning for the Receiving Site was approved to change from Residential to Commercial as part of the Comprehensive Plan Update. Office uses are allowed by right in most commercial zones.
10. Due to the unique configuration of the Receiving Site, its location adjacent to SW Broadway and close proximity to Interstate 405, as well as the costs associated with renovating and relocating the Morris Marks House, office use may reflect the best and most financially viable use of the structure.
11. The Receiving Site property is zoned RH, High Density Residential. Office Uses are only allowed in the RH zone if they are part of a new multi-dwelling development. To address this, the development of the Receiving Site will continue to be subject to the use and development standards of the RH zone, with the exception of permitting Office as an allowed use, for this historic house prior to the effective date of the Comprehensive Plan Update.
12. The applicants have applied for a demolition delay required by PCC 33.445.150.B and the required 120-day demolition delay has passed; however, no permit has been issued for construction of a new building at the Sending Site. Despite this, the owner of the Sending Site has stated that the Morris Marks House must be relocated.
13. With the exception of the actions authorized by the City Council in this ordinance, all elements of the relocation, change of occupancy and remodeling of the Morris Marks House will follow all applicable codes and permit requirements.
14. Relocation of the Morris Marks House poses significant difficulties and barriers to the successful preservation of the structure, both logistical and financial. These barriers include the following:
 - a. Zoning: Conversion of the Morris Marks House to an Office Use, as proposed, is prohibited in the RH zone. To relocate the Morris Marks House to the Receiving Site under applicable development standards would require multiple, lengthy land use reviews, including a Pre-Application Conference, Comprehensive Plan and Zoning Map Amendments, which require multiple public hearings. A Historic Resource Review for foundation and site improvements, a Modification to the Street-Facing Façades standard found in PCC 33.120.232.B.1.
 - b. Physical barriers: In order to physically relocate the structure, a plan has been developed that would move the structure through the Portland State University campus to the Receiving Site.

To accomplish the move, several trees must be removed. One Sweet Gum tree is located in the right-of-way and will require mitigation planting or a fee in lieu for removal. One cedar tree and three maples are located on Portland State University property and will require mitigation planting. Two Paperbark Maples are located in a private parking lot and will require replanting per Portland Zoning Code requirements. The mitigation requirements for the loss of the street tree will be inch for inch replacement, as described in the *Tree Loss Mitigation Standards for Right-Of-Way Trees*.

- c. Financial: In addition to the significant moving, foundation and remodeling costs, the City's System Development Charges pose an additional financial barrier.
15. Exterior alterations to the Morris Marks House that will not be subject to Historic Resource Review will occur in order to facilitate the move to the Receiving Site, specifically, the house will be cut in half.
 16. It is in the public interest to allow the eventual redevelopment of the Sending Site on SW 12th Avenue, while preserving the Morris Marks House because the house is an important asset to the City as a whole and is part of the historic fabric of Portland reflecting development from the 1880s. The Morris Marks House has been a part of the Portland Downtown neighborhood for many years and its relocation to the Receiving Site will allow the preservation of the architectural treasure. Given the unique circumstances, this City Council action is not a precedent for any future action.

NOW THEREFORE, the Council directs:

- a. In order to allow the Morris Marks House to be relocated to the property located northwest of the intersection of SW Broadway Street and SW Grant Street also referred to as Tax Account #R128726 and depicted in Exhibit B, (the Receiving Site), the provisions of PCC 33.445.140.A are waived to allow the Morris Marks House to move prior to the issuance of a permit for a new building on the Subject Site. In addition, the provisions of PCC 33.120.100.A and PCC 33.120.232.B.1 are waived to allow use of the Morris Marks House for an Office Use and to allow the street-facing facades to include less than 15 percent windows or main entrance doors. This will result in a nonconforming use (Office use) at the site prior to the implementation of commercial zoning as approved through the Comprehensive Plan Update as well as a nonconforming street-facing façade.
- b. The Morris Marks House will regain its designation as a Historic Landmark when it arrives at the Receiving Site and the Historic Resource Inventory is hereby modified to reflect its new location. Future alterations will be subject to 33.445.140. As a local historic resource and consistent with PCC 33.445.610.C.6, the Morris Marks House is not subject to minimum housing density regulations.
- c. Except as stated in directive "a" above, all structures and development on the Receiving Site are subject to and must comply with the RH zone development standards and all applicable regulations in effect at the time of the development, with the exception of

the RH zone's minimum density requirement of 5 dwelling units. The structure will retain its local historic resource status and therefore is exempt from minimum density requirements as stated in PCC 33.445.610.C.6. The minimum density on the site shall be zero dwelling units. This ordinance does not preclude the property owner of the Receiving Site from requesting exceptions to the applicable regulations as allowed by the code.

- d. A one-time waiver of the System Development Charges (SDCs) associated with the Morris Marks House relocation for the Bureaus of Transportation, Environmental Services, Parks and Water for the Receiving Site is hereby authorized.
- e. Prior to occupancy, the Applicants for the Receiving site shall construct frontage improvements to the satisfaction of the City Engineer under a separate Public Works Permit, including all required property dedications and easements.
- f. Prior to occupancy, the Applicants shall finalize all applicable permits and shall satisfy the stormwater requirements of the Stormwater Management Manual to the satisfaction of the Bureau of Environmental Services.
- g. This ordinance is effective only so long as the Morris Marks House is located at the Receiving Site depicted in Exhibit B. If the Morris Marks House is demolished or relocated according to rules of the Historic Resource Overlay Zone (PCC 33.445), all future development on the site must comply with the zoning regulations that are in place at the time redevelopment is proposed.
- h. If the Morris Marks House is damaged or destroyed, intentionally or otherwise, prior to the application of zoning associated with the Comprehensive Plan Update, and the repair costs exceed 75 percent of the assessed value of the structure, as of the tax year immediately preceding destruction or damage, it must be removed and cannot be rebuilt.
- i. Except as otherwise provided in this ordinance, permits reflecting compliance with all applicable codes, titles and regulations are required for the change of occupancy from single-dwelling residential to Office or a mix of residential and Office and the remodel of the Morris Marks House, including any necessary trade permits sewer connection permits, water quality backflow requirements and erosion control measures.
- j. An application for a Historic Resource Review for the new foundation and site improvements required by 33.445.140 including a Modification to the Street-Facing Facades standard of 33.120.232.B.1, if necessary, must be submitted within 90 days from the date the Morris Marks house arrives at the Receiving Site. Fees for this Historic Resource Review are hereby waived.
- k. Before making any improvements to the Receiving Site or relocating the structure to the receiving site, the new owners of the Morris Marks House and the Receiving Site must execute a Hold Harmless agreement stating that the City of Portland is not liable for investments and improvements made prior to the issuance of the primary building permit and a land use decision for the Historic Resource Review and Modification.
- l. The new owners of the Receiving Site must take all appropriate and necessary actions to secure the Receiving Site and the Morris Marks House while the foundation is being

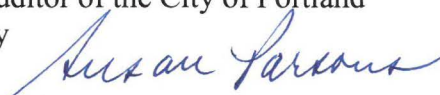
constructed to prevent the site from becoming an attractive nuisance and to avoid creating a danger to neighboring property owners or the public.

- m. The provisions of Portland City Ordinance 124907, granting rights and responsibilities related to the Receiving Site to the Parks Bureau, is hereby rescinded. The Water Bureau shall have all rights and responsibilities related to the City's ownership of the Receiving Site.
- n. This ordinance must be recorded and a lease or purchase agreement with the Water Bureau must be executed before the building or other permit for the relocation of the Morris Marks House is issued.
- o. Once recorded, this ordinance runs with the Receiving Site; it is not personal to the Receiving Site property owners.
- p. If the City Council adopts or amends PCC Title 33 (Planning and Zoning) regulations to allow outright the office use, density and development of the Morris Marks House on the Receiving Site, sections a and c of Section 1 of this ordinance will no longer be effective.

Section 2. The Council declares an emergency exists because of the value the City places on facilitating the preservation of the Morris Marks House rather than having it demolished; therefore, this ordinance shall be in full force and effect from and after its date of passage.

Passed by Council, **SEP 21** 2017
 Commissioner Chloe Eudaly
 Prepared by: Matt Wickstrom, BDS
 September 21, 2017

Mary Hull Caballero
 Auditor of the City of Portland
 By


 Deputy

S-1044

Agenda No.
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INTRODUCED BY Commissioner/Auditor: Commissioner Chloe Eudaly	CLERK USE: DATE FILED <u>SEP 21 2017</u>
COMMISSIONER APPROVAL Mayor—Finance & Administration - Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By: <u><i>Susan Sarsans</i></u> Deputy
BUREAU APPROVAL Bureau of Development Services Bureau Head: Rebecca Esau, Interim Director Prepared by: Leanne Torgerson Date Prepared: 9/11/17 Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> City Auditor Office Approval: required for Code Ordinances City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter Council Meeting Date 9/21/17, 2:00 TC	ACTION TAKEN:

AGENDA TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:00 TC Total amount of time needed: 45 minutes (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	—	
4. Eudaly	4. Eudaly	✓	
Wheeler	Wheeler	✓	