

## IMPACT STATEMENT

**Legislation title:**

\*Waive certain zoning code standards addressing use, street-facing facades, and timing of demolition 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 Resource Inventory status for the structure (Ordinance; waive Code Section 33.120.100.A, 33.120.232.B.1 and 33.445.520.A.2.c.)

**Contact name:** Matt Wickstrom, BDS Senior City Planner

**Contact phone:** 503-823-6825

**Presenter name:** Matt Wickstrom

**Purpose of proposed legislation and background information:**

The proposed Ordinance is not a permanent legislative action; it is limited to waiving certain zoning regulations for site specific development – relocation of the Morris Marks House. The Morris Marks House is currently located at 1126-1134 SW 12<sup>th</sup> Avenue. It was built in 1880 and is a rare example of Italianate architecture in Portland. It was formerly listed on the Portland Historic Resource Inventory but its move requires temporary removal from the inventory. The owner of the property plans to redevelop the site and does not envision retaining the Morris Marks House. The new owners of the house would like to move it to a site northwest of the intersection of SW Broadway Street and SW Grant Street, currently owned by the Portland Water Bureau. The Ordinance allows Office use of the site; delays a required Historic Resource Review for the new foundation and waives a street-facing façade standard in the Portland Zoning Code. The Ordinance also waives SDC fees and land use review fees.

**Financial and budgetary impacts:**

The proposed Ordinance is not a permanent legislative action. The request to waive SDC fees and land use review fees helps to offset the financial costs associated with moving the Morris Marks House. This is a one-time request to waive fees and therefore should not pose a long-term financial or budgetary impact. The Ordinance does not authorize spending on a new or existing project or program. Current or future staffing levels will not be impacted. No financial agreement is included with the Ordinance.

**Community impacts and community involvement:**

Community impacts are minimal. The project results in the preservation of a house formerly listed on the Portland Historic Resource Inventory. A Notice of Public Hearing was sent to all property owners and residents within 400 feet of the receiving site (a property northwest of the intersection of SW Broadway Street and SW Grant Street) on September 12, 2017 so that neighbors who are interested in the project are aware of the hearing and can share opinions. The Notice of Public Hearing also provided neighbors with a staff contact for questions. It was also sent to all recognized organizations in the 400-foot vicinity.

**Budgetary Impact Worksheet****Does this action change appropriations?**☐ **YES:** Please complete the information below.☒ **NO:** Skip this section

<b>Fund</b>	<b>Fund Center</b>	<b>Commitment Item</b>	<b>Functional Area</b>	<b>Funded Program</b>	<b>Grant</b>	<b>Sponsored Program</b>	<b>Amount</b>



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Office of the Director**  
FROM CONCEPT TO CONSTRUCTION

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September 21, 2017

To: Mayor Ted Wheeler  
Commissioner Chloe Eudaly  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Dan Saltzman

From: Rebecca Esau, Interim Director *RE*  
Bureau of Development Services

RE: Morris Marks House Move Ordinance

The Bureau of Development Services has prepared an ordinance to facilitate the move of the Morris Marks House from 1126-1134 SW 12<sup>th</sup> Avenue to a lot currently owned by the Water Bureau and located northwest of the intersection of SW Broadway Street and SW Grant Street.

Background:

The Morris Marks House was built in 1880 and is a rare example of Italianate architecture in Portland. The redevelopment plans of the owner of the property where the Morris Marks House is currently located do not include retention of the historic structure, necessitating the need to move the house to another location.

The Morris Marks House will be moved through the Portland State University; however, an upcoming development project on the campus will impact the house move route beginning October 1, 2017 and therefore, the house must be moved before that date.

Ordinance Summary:

The Ordinance waives three provisions in the Portland Zoning Code: 1) allowing Office use of the structure; 2) postponing a required Historic Resource Review for the new foundation and other site improvements until after the structure is moved; and 3) waiving street-facing façade (window standards) found in the Portland Zoning Code. The Ordinance also "relists" the Morris Marks House on the Portland Historic Resource Inventory. Finally, the Ordinance waives System Development Charges for the project and Historic Resource Review fees.

**ORDINANCE NO.**

\*Waive certain zoning code standards addressing use, street-facing facades, and timing of ~~Historic Resource Review~~~~demolition 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 Resource Inventory~~ status for the structure (Ordinance; waive Code Section 33.120.100.A, 33.120.232.B.1 and ~~33.445.140.A~~ ~~33.445.520.A.2.e.~~)

## Section 1. The Council finds:

1. The Morris Marks House (also known as the Fried-Durkheimer House), located at 1126-1134 SW 12<sup>th</sup> 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 12<sup>th</sup> Avenue ~~was designated a City of Portland Historic Landmark on July 16, 1980, does not have a formal landmark designation on the National Register of Historic Places; however, it is a local historic resource through its listing in the City of Portland Historic Resource Inventory.~~ 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 12<sup>th</sup> 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.~~

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6.7. 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.

7.8. 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.

8.

9.10. 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.

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10.11. 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.

11.12. The applicants have applied for a demolition delay ~~review~~ 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.

12.13. 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.

13.14. 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, ~~and a completed Demolition Review found in PCC 33.425.520.A.2 would also be required prior to relocation.~~

- 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.

~~e.  
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.~~

- ~~14,16.~~ It is in the public interest to allow the eventual redevelopment of the Sending Site on SW 12<sup>th</sup> 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.

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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 33.445.150.A.2.e~~ 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 façades 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~~ retain its designation as a Historic Landmark listing on the Historic Resource Inventory as a local historic resource 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,  
Commissioner Chloe Eudaly  
Prepared by: Matt Wickstrom, BDS  
September 21, 2017

Mary Hull Caballero  
Auditor of the City of Portland  
By

Deputy