



Office of the City Clerk

**Jim Owczarski**  
City Clerk  
jowcza@milwaukee.gov

**Dana J. Zelazny**  
Deputy City Clerk  
d.zelazny@milwaukee.gov

September 12, 2023

**CERTIFIED MAIL**

Linda Gorens-Levey  
GenCap Triangle, LLC  
6938 N. Santa Monica Blvd.  
Milwaukee, WI 53217

**RE: Resolution relating to a Certificate of Appropriateness for demolition of 266 E. Erie Street, the Miller Tavern / Catherine Foley Building, an individually designated historic site, for GenCap Triangle LLC.**

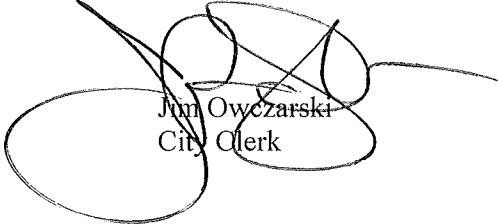
Dear Ms. Gorens-Levey:

Your application listed above was heard at the Historic Preservation Commission meeting of September 11, 2023. At this meeting, the Commission denied your application for demolition by a vote of six (6) ayes and one (1) abstain.

You can appeal the Commission's decision to the Common Council by filing a written request with the City Clerk by October 4th. I have also included a copy of any appeal requirements you might be required to comply with as well as a form that needs to be completed for a financial hardship exemption. The appropriate Common Council committee will hear your appeal at its next meeting.

If you have any questions relating to the appeal process, please contact Linda Elmer at 414-286-2231.

Sincerely,



Jim Owczarski  
City Clerk



new construction that also involves an application for a zoning change to a planned development district pursuant to s. 295-907-2, the commission shall confer with the commissioner of city development and shall coordinate the review of the application for a certificate of appropriateness for new construction with the review of the application for creation of the planned development district. This review and coordination may include holding a joint meeting of the historic preservation commission and the plan commission to consider both applications. To the extent practicable, the historic preservation commission and plan commission shall strive for concurrent consideration of the application for a certificate of appropriateness for new construction and the application for creation of the planned development district, and shall endeavor to provide a joint report to the common council. In the event that concurrent consideration cannot be achieved, the historic preservation commission and plan commission do not agree on a joint report or the historic preservation commission fails to act within a reasonable time on the application for a certificate of appropriateness for new construction, the appropriate common council committee shall hold a hearing on both the application for a certificate of appropriateness for new construction and the application for creation of a planned development district. In that case, the common council's action with respect to the approval, denial or modification of the application for creation of a planned development district shall also constitute action on the application for a certificate of appropriateness for new construction.

j. **Additional Provisions; No Action Taken By Commission.** Notwithstanding anything to the contrary herein, if the commission does not grant, grant with conditions, deny or, in the case of a request to demolish a structure, defer action on a certificate of appropriateness within 75 days of the date that the staff of the commission determined that the application was complete as to form, the application for a certificate of appropriateness shall be deemed deferred and the procedures set forth in par. f-2 shall govern further proceedings.

k. **Issuance of Certificate.** Upon the granting or conditional granting of a certificate of appropriateness by the commission, the commission's staff shall issue a certificate of appropriateness to the applicant. In the case of conditional granting of a certificate, the certificate shall only be issued upon the applicant's acceptance of the conditions placed on issuance of the certificate by the commission.

L. **Appeal.** If, upon a hearing by the commission, the application for a certificate is

denied or the certificate is granted conditionally and the applicant refuses to accept the conditions placed on the granting of the certificate, the applicant may appeal the denial or conditional granting of the certificate to the common council by filing a written request with the city clerk within 20 days after the mailing of the certified letter to the applicant of the commission's decision. The city clerk shall file the request to appeal with the common council. After a public hearing at the next regularly-scheduled meeting of the appropriate common council committee, the council may, by majority vote of the common council, reverse or modify the decision of the commission if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his or her own purposes, the council finds that, owing to special conditions concerning the specific piece of property, failure to grant the certificate of appropriateness will preclude any and all reasonable use of the property or will cause unreasonable economic hardship for the owner, provided that any self-created hardship or failure to maintain the property in good repair shall not be a basis for reversal or modification of the commission's decision. If claiming that denial of the certificate or the conditional approval of the certificate causes unreasonable economic hardship for the owner, the applicant shall provide clear and convincing evidence that any hardship is not self-created or the result of failure to maintain the property in good repair, that there is no reasonable use for the property, that there is no reasonable way to adapt the property for alternative use, and that there has been no reasonable offer to purchase the property despite at least 2 years of ongoing substantial effort to sell the property other than an owner-occupied one- or 2-unit residential property, the applicant shall provide the following information to the city clerk not less than 5 days prior to the public hearing:

L-1. **Property purchase information,** including the purchase price the owner paid for the property, the name and legal status of the owner, the date of purchase and the name of the party from whom the property was purchased, including a description of the relationship, if any, between the owner of the property and the person from whom the property was purchased.

L-2. **Property value information,** including the most recent assessed value of the land and improvements thereon and any appraisals in the owner's possession or control prepared within the previous 2 years in connection with any purchase, financing, ownership change or attempt to sell the property, and the current and past uses, for at least the last 5 years, of the property.

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L-3. For an income-producing property, financial documentation for the property during the past 2 years, including tax returns showing annual gross income from the property, itemized operating and maintenance expenses for the property, real estate tax statements, proof of annual debt service, including mortgage balance and terms, annual cash flow and any federal income tax deductions or depreciation claimed for the property. For an owner-occupied residential property, income tax returns for the last 2 years.

L-4. All information within the owner's possession or control about attempts to sell the property, including all listings of the property for sale or rent, the price asked and any offers received.

L-5. All information within the owner's possession or control, such as plans, site assessments and other information, regarding any attempt to develop profitable, adaptive uses of the property.

L-6. Any other information that is relevant to the issue of whether denial of the certificate or the conditions placed on the certificate creates an unreasonable economic hardship for the owner, such as reports of licensed engineers or architects familiar with the property or cost estimates for work necessary to satisfy conditions on the certificate or the regulations contained herein, including any additional information requested by the common council or common council committee.

m. Location of Utility Meter. New installation of a natural gas meter or a utility meter on a historic structure, or on a structure on a historic site or within a historic district, shall not be permitted on a street-facing elevation of the structure.

n. Building Code Compliance. Insofar as it is applicable to a historic structure, historic site or structure within a historic district designated under this section, any provision of the building code shall apply, unless waived by the appropriate state or city officials as permitted by law. The commission may support or propose such waivers before the appropriate state or city appeals bodies.

**12. GUIDELINES FOR REHABILITATION.** In determining whether to issue a certificate of appropriateness for rehabilitation, the commission shall consider and may give decisive weight to any or all of the following:

a. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the exterior of a building, structure or site and its environment.

b. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal

of alteration of any historic material or distinctive architectural features should be avoided when possible.

c. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier or later appearance shall be discouraged.

d. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

e. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.

f. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. If replacement is necessary, the new material shall match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different elements from other buildings or structures.

g. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken without a certificate of appropriateness.

h. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.

i. Contemporary design for alterations and additions to existing properties shall not be discouraged when the alterations and additions do not destroy significant historical, architectural or cultural material, and the design is compatible with the size, scale, color, material and character of the property, neighborhood, or environment.

j. Wherever possible, new additions or alterations to structures shall be done in such a manner that if the additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

**13. TEMPORARY DESIGNATION.** a. Application. Any resident of the city seeking to nominate a structure, site or geographic area for designation as a historic structure, historic site or historic district may also seek temporary designation of that structure, site or geographic

# HPC Appeals Checklist for Financial Hardship

As set forth in s. 62.23(7)(em), Wis. Stats., it is a matter of public policy that the protection, enhancement, perpetuation, and use of improvements of special architectural character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety, and welfare of the people. The standards for appealing a decision of the Historic Preservation Commission based on a claim of financial hardship are high because of the importance of treating all property owners fairly while preserving original materials and design as much as possible. Therefore, appellants must submit the following information to the Historic Preservation Commission to support an appeal based on a claim of financial hardship.

**Please check off boxes, fill in the the blanks, and attach supplementary materials as applicable to your circumstances.**

## Base Requirement

- Clear and convincing evidence that any hardship is not self-created or the result of failure to maintain the property in good repair.
- Owner-occupied single-family homes and duplexes are exempt from requirements to pursue selling the property and from providing certain information about owner financials. All other information is required, if it exists.

## Required Supporting Materials

### 1. Property Purchase Information

- Purchase price \_\_\_\_\_
- Name and legal status of owner (e.g., natural person, sole proprietor, LLC, C corp) \_\_\_\_\_  
\_\_\_\_\_
- Date of purchase \_\_\_\_\_
- Name of seller \_\_\_\_\_
- Description of relationship between owner and seller  
\_\_\_\_\_

### 2. Property Value Information

(Search Assessment Data: [assessments.milwaukee.gov/default.asp](http://assessments.milwaukee.gov/default.asp))

- Current assessed value \_\_\_\_\_
  - Value of the land \_\_\_\_\_
  - Value of improvements \_\_\_\_\_
- Appraisals, if any, from the last two years

### 3. Owner Financials

- Owner-occupied single-family or duplex:
  - Most recent two years of income tax returns
- Income-producing or commercial use properties:
  - Most recent two years of:
    - Tax returns showing annual gross income from the property
    - Itemized operating and maintenance expenses
    - Real estate tax statements
    - Proof of annual debt service (mortgage balance & terms, etc.)
    - Annual cash flow
    - Federal income tax deductions for depreciation of the property
  - Income tax returns

## Required Supporting Materials (Continued)

### 4. All information within the owner's possession or control about:

- Attempts to sell the property
  - All listings of the property for sale or rent
  - Price(s) asked
  - Offers received

### 5. All information within the owner's possession or control regarding any attempt to develop profitable, adaptive uses of the property, such as:

- Plans
- Site assessments
- Other relevant information

### 6. Any other information that is relevant to the issue of whether denial of the certificate or the conditions placed on the certificate creates an unreasonable economic hardship for the owner, such as:

- Reports of licensed engineers or architects familiar with the property
- Cost estimates for work necessary to satisfy conditions on the certificate or the regulations contained or referenced therein
- Any additional information requested by the Common Council or Common Council committee

## How to Submit:

Email the completed form and supplementary materials to: [hpc@milwaukee.gov](mailto:hpc@milwaukee.gov)

Form and supplementary materials may also be mailed or delivered to:

### **Historic Preservation Commission**

841 N. Broadway, Rm B1  
Milwaukee, WI 53202

*The completed form and supplementary materials must be received by our office at least 5 business days prior to any appeal hearing.*

