

Timothy J. Baroody
City Manager

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FILED

November 7, 2019

DEC 27 2019

Dear Mayor and Members of Council:

**FREDERICKSBURG
CIRCUIT COURT**

The Fredericksburg Architectural Review Board voted on the City Council's application for a certificate of appropriateness for the relocation of the slave auction block (COA2019-42) at its meeting on Monday, October 14, 2019. A motion to deny the certificate of appropriateness failed by a vote of 2 in favor, 1 opposed, and 3 abstentions. The seventh member of the ARB, Kerri Barile, was in attendance but disqualified from voting due to Dovetail's archaeological work for the City on the stone auction block. A vote of four members of the ARB in favor of the motion was required. The ARB's 90 day review period expired on October 20.

City Council voted to relocate the block at its meeting of June 11, 2019; on July 9, 2019 City Council adopted the relocation plan as proposed by City staff, which included applying for the certificate of appropriateness. Executing on this plan, the certificate of appropriateness was filed on July 22, 2019.

City Code §72-23.1 requires that a written appeal of a decision of the ARB clearly set forth the grounds of the appeal, including the procedure or standard alleged to have been violated or misapplied by the ARB. The procedural error in this case was the failure of the ARB to act to approve, approve with modification, or deny the City's application within the 90 day time period provided in City Code §72-23.1(C)(5). The three members of the ARB who abstained did so on the grounds that City Council had already decided the question through its vote on June 11, 2019, as stated by the ARB Chair on August 12, 2019. The City Attorney had provided her view that the ARB did have jurisdiction over the application in a memo dated September 4, 2019.

With regard to the substantive grounds of this appeal, the City Attorney's letter of October 4, 2019 sets forth the grounds on which the application should be approved. The letter is attached for your reference. Likewise the staff report dated August 7, 2019 supported the application.

The City Council is required to consult with the ARB in relation to this appeal; City Council may consider additional submissions. The Council may affirm, reverse, or modify the ARB's decision and shall transmit a record of its decision to the ARB. The City Council is required to decide the appeal within 45 days of the date of this letter. I propose to schedule the appeal for City Council's consideration at its regular meeting on November 12, 2019. Historic Resources Planner

Letter to Council on Certificate of Appropriateness of Auction Block
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Kate Schwartz will notify the ARB Chair of this meeting date and request his attendance at the meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy J. Baroody". The signature is written in a cursive style with a large, looping initial "T".

Timothy J. Baroody
City Manager