



Date June 11, 2012

RESOLUTION **AFFIRMING** THE DECISION OF THE HISTORIC PRESERVATION
COMMISSION TO CONDITIONALLY APPROVE A CERTIFICATE OF
APPROPRIATENESS FOR THE RETENTION OF A FENCE AT 409 FRANKLIN AVENUE

WHEREAS, on April 18, 2012, the Historic Preservation Commission conditionally approved an application from James Tully for a Certificate of Appropriateness to retain a 6-foot tall fence recently constructed in the east side yard and rear yard of the single-family dwelling at 409 Franklin Avenue, subject to the following conditions:

1. The portion of the fence that faces Franklin Avenue and the southern 8 feet of the east facing fence segment shall be converted to a 4-foot tall picket fence that complies with the following:
 - a. The picket tops shall be cut to match the tops of the existing pickets.
 - b. The pickets shall run between the posts so the posts are fully exposed.
 - c. Spaces shall be provided between pickets that are generally equal to the width of a picket.
 - d. The fence shall step along a grade change at intervals set by the length between the posts and not at variable lengths or with a continuously straight top edge.
 - e. The space between posts shall be uniform, and no less than 4 feet and no greater than 14 feet in distance.
2. All posts shall extend a minimum and uniform distance above the pickets.
3. A fence permit shall be obtained from the City's Permit and Development Center.

WHEREAS, Patrick Duquette, as the tenant of James Tully and resident of the affected property, has appealed the Commission's decision to the City Council pursuant to §58-31(f) of the Des Moines Municipal Code, and seeks to be allowed to retain the fence as constructed; and,

WHEREAS, on May 21, 2012, by Roll Call No. 12-0777, it was duly resolved by the City Council that the appeal be set down for hearing on June 11, 2012, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on May 24, 2012, and a copy of the notice was provided to Patrick Duquette; and,

WHEREAS, in accordance with the said notice, those interested in the issuance of the Certificate of Appropriateness, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, Section 303.34(3) of the Iowa Code and Section 58-31(f) of the Des Moines Municipal Code provide that on an appeal such as this, the City Council shall consider whether the Historic Preservation Commission has exercised its powers and followed the guidelines



Date June 11, 2012

established by the law and ordinance, and whether the Commission's decision was patently arbitrary or capricious; NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. The public hearing on the appeal is hereby closed.
2. The City Council hereby finds that the decision of the Historic Preservation Commission approving a Certificate of Appropriateness for the retention of the fence at 409 Franklin Avenue subject to compliance with the conditions identified above, is not arbitrary or capricious and should be upheld.
3. The City Council hereby finds that the decision of the Historic Preservation Commission to require the modification of the fence to satisfy the three conditions identified above was not patently arbitrary or capricious for the following reasons:
 - a) The River Bend Local Historic District was designated as such by Ordinance No. 15,075, which was published and became effective on February 3, 2012, before the construction of the fence was started.
 - b) The fence was constructed without benefit of the required building permit. Had the required building permit been sought, the modifications to the design of the fence necessary to qualify for a Certificate of Appropriateness would have been determined before the construction started.

MOVED by _____ to adopt, and affirm the decision of the Historic Preservation Commission.

FORM APPROVED:

(Council Communication No. 12- 299)

Roger K. Brown

Roger K. Brown, Assistant City Attorney

C:\Rog\Historic\Appeals\Tully\RC Hrg Affirm.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED	APPROVED			

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor_____
City Clerk

FILED

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409 Franklin Ave
Des Moines IA 50314

2012 MAY 14 AM 8:30

CITY CLERK
DES MOINES

Owner: James Tully
Case Number: 20-2012-9.04
Meeting Date: April 18, 2012

May 13, 2012

To whom it may concern:

This letter is an appeal to the Certificate of Appropriateness issued by the Historic Preservation Commission for the City of Des Moines. The case number and address in question are listed above.

It was recently concluded that the retention of a 6-foot tall fence in the front of the property does not comply with the guidelines set forth by the Historic Commission. Revisions were suggested.

We are appealing the decision based on two circumstances, which we feel should require an exemption to the guidelines of the Historic Commission.

1. As of August, 2011, homeowner James Tully, and current residents, Patrick and Danielle Duquette, agreed that a fence should be erected around the property as payment for the August rent. This agreement was formed prior to the formation of the Historic Commission. Therefore, this agreement should supersede the certificate of appropriateness.
2. The location of the property is in a neighborhood, which historically, has been less than secure. The lower economic status of a number of the residents of the neighborhood, as well as the location of the Shop and Save on the corner of 6th Ave and Franklin, generates a great deal of pedestrian traffic in front of the property. Prior to the construction of the fence, our oldest daughter was threatened with her life while in the front yard. Also, there have been occurrences of drug activity next door. For reasons of security, we feel that the changes proposed by the Historic Commission should be overruled.

We believe that the fence complies with the building and zoning codes of the City of Des Moines. If it determined that it does not, further revisions will be considered.

Sincerely,



Patrick Duquette

563-210-5547

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April 30, 2012

Patrick Duquette
409 Franklin Avenue
Des Moines, IA 50314-3322

RE: 409 Franklin Avenue – COA #20-2012-9.04

Dear Mr. Duquette:

A copy of Certificate of Appropriateness #20-2012-9.04 is attached. Please note that the modifications to the fence must be made for the fence to comply with the conditions of approval. Typically, work approved by the Commission can be performed on a schedule of the applicant's choosing so long as the Certificate has not expired. In cases where work is necessary to abate a violation, the work must be completed in 90 days unless a mutually agreeable timeline is reached between the property owner and City staff.

If you believe that the Commission's action was arbitrary or capricious, you may appeal their decision to the City Council. Appeals must be in writing and filed with the City Clerk no later than ten business days after the filing of the above-mentioned decision. Your Certificate was filed on April 30, 2012. An appeal must be submitted no later than May 14, 2012.

In no appeal is received, you will have 90 days to bring the fence into compliance with the conditions of approval unless a mutually agreeable timeline is reached between you and staff. A case will be filed with the District Court in accordance with Section 58-35 and Section 1-15 of the City Code if the work is not completed in accordance with the Certificate by August 12, 2012. The approved porch work can be done at a time of your choosing so long as your Certificate has not expired. These timeframes do not supersede any obligation you may have to make improvements sooner in order to comply with the Building Code, Rental Code or other applicable regulations. This includes the obtainment of a fence permit from the City's Permit and Development Center.

Please contact me at 283-4147 or at jmvanessen@dmgov.org if you have any questions or would like to discuss an alternative timeline.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Van Essen".

Jason Van Essen, AICP
Senior City Planner

cc: Phil Delafield, Community Development Director
Michael Ludwig, Planning Administrator
SuAnn Donovan, Neighborhood Inspection Administrator
Bob Reynolds, Neighborhood Inspector
Bob Knudson, Zoning Enforcement Inspector

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HISTORIC PRESERVATION COMMISSION
CITY OF DES MOINES
CERTIFICATE OF APPROPRIATENESS
In the Following Matter

This Certificate of Appropriateness is valid for one year from the meeting date

REQUEST FROM:	:	CASE NUMBER: 20-2012-9.04
	:	
JAMES TULLY	:	
	:	
PROPERTY LOCATION:	:	MEETING DATE: APRIL 18, 2012
	:	
409 FRANKLIN AVENUE	:	

This Decision of the Historic Preservation Commission does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

SUBJECT OF THE REQUEST:

- A) Retention of a 6-foot tall fence in the east side and rear yards. (see decision 1)
- B) Repair of the rear porch as needed. (see decision 2)

DECISION 1 – Part A

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Granting the application as presented subject to the conditions below would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications.

CONDITIONS:

1. The portion of the fence that faces Franklin Avenue and the southern 8 feet of the east facing fence segment shall be converted to a 4-foot tall picket fence that complies with the following:
 - a. The picket tops shall be cut to match the tops of the existing pickets.
 - b. The pickets shall run between the posts so the posts are fully exposed.
 - c. Spaces shall be provided between pickets that are generally equal to the width of a picket.
 - d. The fence shall step along a grade change at intervals set by the length between posts and not at variable lengths or with a continuously straight top edge.
 - e. The space between posts shall be uniform, and no less than 4 feet and no greater than 14 feet in distance.
2. All posts shall extend a minimal and uniform distance above the pickets.
3. A fence permit shall be obtained from the City's Permit and Development Center.

VOTE: A vote of 6-0-1 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			
Bye				X
Griffin	X			
Holderness	X			
Estes	X			
Fenton				X
Marchand			X	
Shaw				X
Sweet	X			
Taenzer	X			
Weidmaier				X

DECISION 2 – Part B

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Granting the application as presented subject to the conditions below would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications.

CONDITIONS:

1. All repairs and replacement of materials shall be done with matching materials of a matching design including, but not limited to fascia, posts, balusters, railing and brick piers.
2. All new porch flooring shall be tongue-and-groove style and constructed of wood.
3. A round black metal bar may be installed above the balustrade if the City's Permit and Development Center determines that a railing is required that is taller than the historic balustrade.
4. Wooden steps with railing that matches the porch balustrade may be constructed to the north of the porch.
5. Compliance with the building code and obtainment of all necessary permits for construction.

James Tully
409 Franklin Avenue
20-2012-9.04

-3-

April 18, 2012

⁶⁻⁰⁻¹
VOTE: A vote of ~~5-0-0~~ was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			
Bye				X
Griffin	X			
Holderness	X			
Estes	X			
Fenton				X
Marchand			X	
Shaw				X
Sweet	X			
Taenzer	X			
Weidmaier				X

Approved as to form:


Michael Ludwig, AICP
Planning Administrator


Phil DeLafield
Community Development Director

Date Filed: 4/30/12

Filed By: JV

CITY OF DES MOINES HISTORIC PRESERVATION COMMISSION
STAFF REPORT AND RECOMMENDATION
Wednesday, April 18, 2012

AGENDA ITEMS #4**20-2012-9.04**

Applicant: James Tully (owner) represented by Patrick Duquette.

Location: 409 Franklin Avenue (River Bend Historic District).

Requested Action: A) Retention of a 6-foot tall fence in the east side and rear yards.
B) Repair of the rear porch as needed.

I. GENERAL INFORMATION

1. **Site Description:** The subject property is irregularly shaped. It measures 13,072 square feet and contains a 2½-story building built circa 1896.
2. **Sanborn Map:** The 1901, 1920 and 1957 maps show the general footprint of the subject house including an open, full width front porch and the rear porch.
3. **COA History:** None.

II. APPLICABLE DESIGN GUIDELINES

1. Architectural Guidelines for Building Rehabilitation and Fence Design Guidelines (wood fence):

- a. The character of the fence should be in keeping with the character of the building. Large, ornate buildings require fencing material and design of a substantial and elaborate type. A simple building may require a picket or woven wire fence.
- b. The scale of the fence, posts and gates should be appropriate to the building.
- c. Visually open fences should be used.

The existing fence is located in the rear and the east side yard. The southern portion of the fence is flush with the front wall plane of the house. Typically, the Commission has required 6-foot tall privacy fences to be setback from the front wall plane to clearly separate them from the front yard and lessen their impact on the overall visual quality of the district. In some cases, shrubs have been required as well to obscure privacy fences from street view. Staff recommends that the south segment of the fence be moved north to a point past the second basement window on the east façade. If the Commission finds that moving the fence back is not warranted then staff recommends that shrub plantings along the south perimeter of the fence be required.

- d. The rear yard fence, both open and solid, should be a maximum of six feet in height.

The fence is 6 feet tall.

- e. A gate is recommended from an enclosed back yard to an alley or another back yard.
- f. A gate is recommended between two side yards when the fence runs the entire length of the front and back yard.

The fence has a gate that faces the front yard. The applicant intends to add a second gate to the western portion of the fence in the rear yard. The gates match the appearance of the fence.

- g. The fence should step along a grade change at intervals set by the length between posts (rather than at variable lengths or with a continuously straight top edge).
- h. The post and rail side should be facing the homeowner's yard while the picket side should face the street, neighbor or alley.

The existing fence complies with these guidelines.

- i. Posts are typically built with four equal sides with a base and a cap, and are slightly taller than the pickets. Six to 12 inch squares are common for a prominent post. The minimum width should be the height of the post in feet translated to the equivalent width in inches, e.g., if the post is four feet tall, the width should be at least four inches wide.
- j. Pickets should be 3/4 to one inch thick and one to six inches wide (if wider pickets are used, a pattern should be cut into the center of the boards to minimize the wide appearance).
- k. Most fences are made of three elements: post, rail and picket. The rail is typically the only horizontal element. The rails should be placed between or on the back side of the posts not the front.
- l. The pickets on fences in the front and side yards should be placed between the posts (not run continuously in front of the posts).
- m. Posts are a very important visual part of a fence and should not be hidden by the pickets.
- n. The spacing between posts should be approximately 4 to 14 feet, depending on the design.
- o. The space between pickets should be approximately equal to the width of the picket in front and side yards.
- p. When privacy is a concern, the boards may be spaced closer together, however, it is encouraged to keep the height of the fence as low as possible and to provide at least the thickness of a board (3/4 to one inch) between the pickets.

The posts of the existing fence are concealed by the pickets. Staff believes that the portion of the fence that faces the front yard should be altered so that the pickets run between the posts. The remaining side yard portion of the fence is not as visible. Therefore, staff believes that requiring these pickets to be altered is not warranted.

- q. Adjacent fences that are on different properties should join.
- r. Painted fences are preferred to in the front and side yards. Stains and unpainted wood are not recommended in historic neighborhoods.

Staff believes that either painting or not painting the fence would be appropriate since the fence is located in the side and rear yards.

2. Architectural Guidelines for Building Rehabilitation (rear porch):

- a. Front porches should be restored or reconstructed if missing. The original porch should be reconstructed using the original roof style and pitch and the original design of posts, columns, brackets and balustrade.
- b. If the original design cannot be determined, a porch should be built in a simple version of a style typical to the particular style of the house.
- c. Porches should be restored or rebuilt with posts or columns that are consistent with the style of the building. Undetailed, nominal 4-foot by 4-foot posts should not be used unless original to the structure.
- d. Porches should be rebuilt or repaired with materials that are the same as the original.
- e. Wrought iron should not be used as a balustrade unless it had been used as an original design element on the building.
- f. Wooden steps and flooring should usually be used on a wooden porch, brick or poured concrete steps should be used on a brick or stucco porch.
- g. Precast concrete steps are not permitted in a historic district.

The applicant wishes to make repairs to the rear porch as needed. Repairs would generally focused on the joists and flooring, the northern most brick pier, missing segments of balustrade and the reinstallation of the northern post.

III. STAFF RECOMMENDATION

Part A) Staff recommends approval of the requested Certificate of Appropriateness subject to the following conditions:

1. Posts shall extend a minimal and uniform distance above the pickets.
2. The portion of the fence facing Franklin Avenue shall comply with the following:
 - a. The fence shall be move north to a point past the second basement window on the east façade. The unnecessary east facing portions of the fence shall be removed.
 - b. The pickets shall run between the posts so they are fully exposed.
 - c. The fence shall step along a grade change at intervals set by the length between posts and not at variable lengths or with a continuously straight top edge.
 - d. The space between posts shall be uniform, and no less than 4 feet and no greater than 14 feet in distance.
 - e. Spaces shall be provided between the pickets that are generally equal to the thickness of the pickets.
3. A fence permit shall be obtained from the City's Permit and Development Center.

Part B) Staff recommends approval of the request subject to the following conditions.

1. All repairs and replacement of materials shall be done with matching materials of a matching design including but not limited to fascia, flooring, posts, balusters, railing and brick piers.
2. A round black metal bar may be installed above the balustrade if the City's Permit and Development Center determines that a railing is required that is taller than the historic balustrade.
3. Wooden steps with railing that matches the porch balustrade may be constructed.
4. Compliance with the building code and obtainment of all necessary permits for construction.

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Zoning Map



Disclaimer

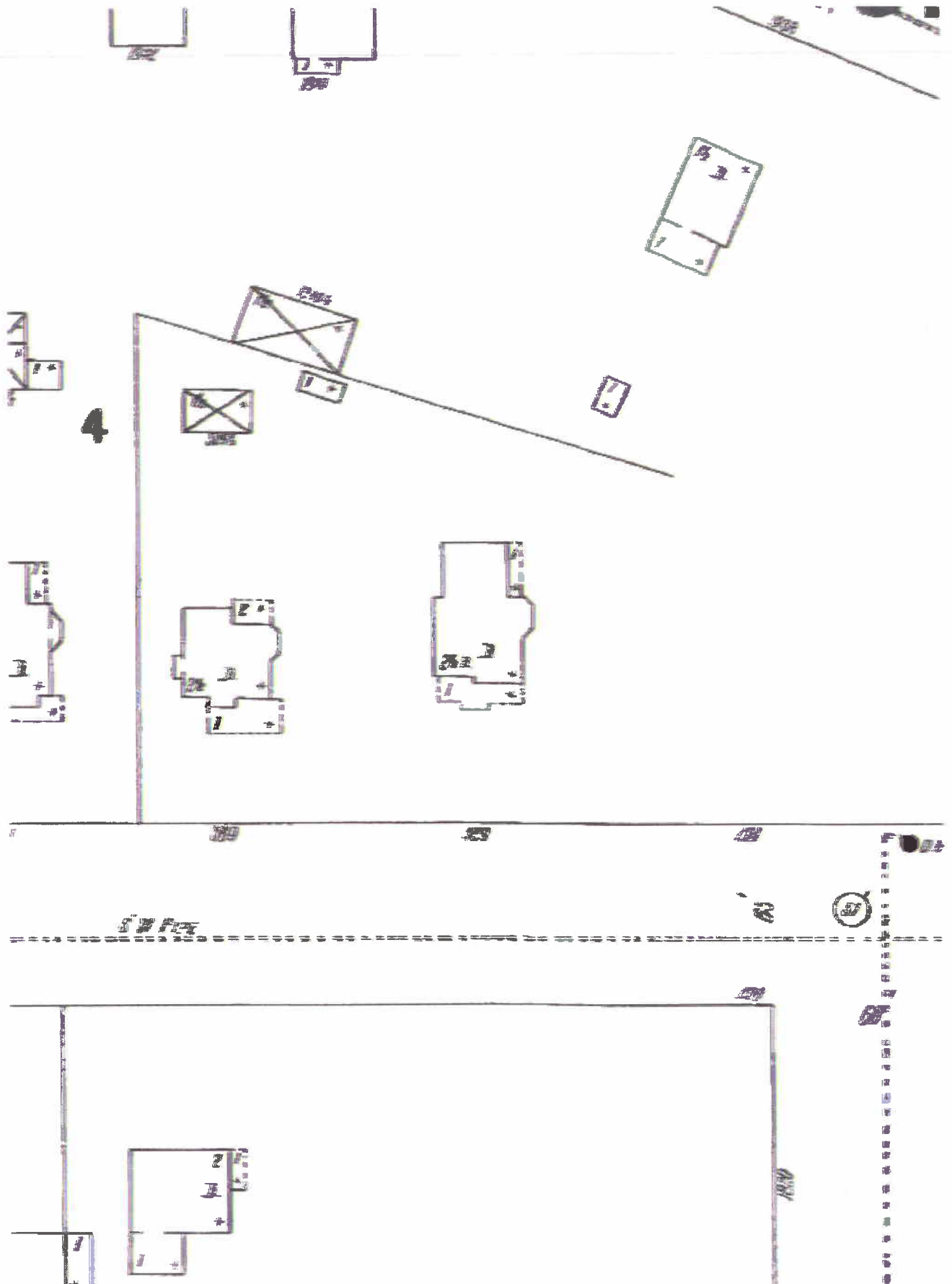
It is understood that while the City of Des Moines' Geographical Information Systems Division has no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the GIS personnel make no warranty or representation, either expressed or implied, with respect to the information, or data displayed.

Note: Public property represented on this map is not intended to be inclusive.

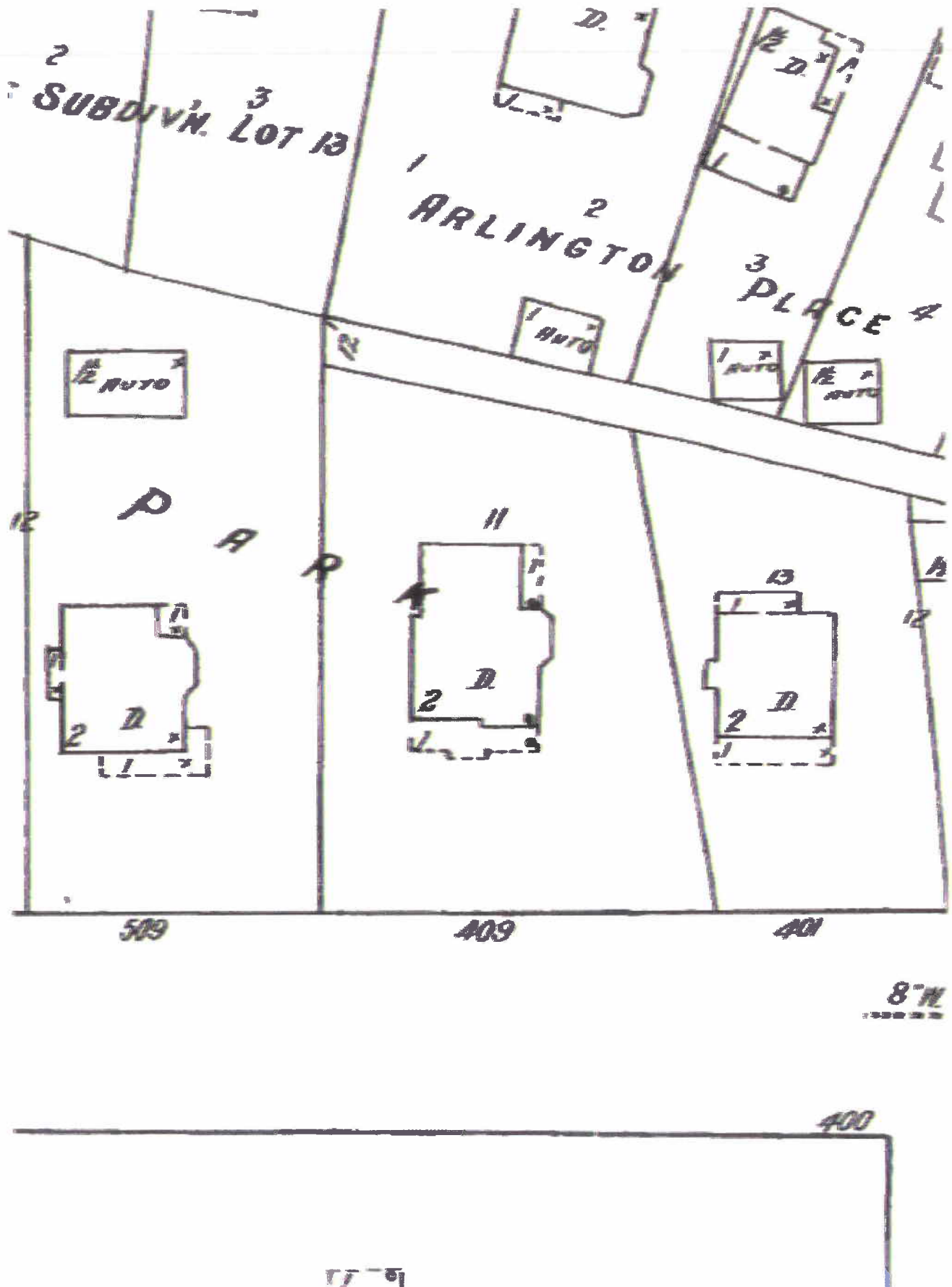
For information about Zoning data: please contact the City of Des Moines' Community Development Department.

409 FRANKLIN YR: 1901

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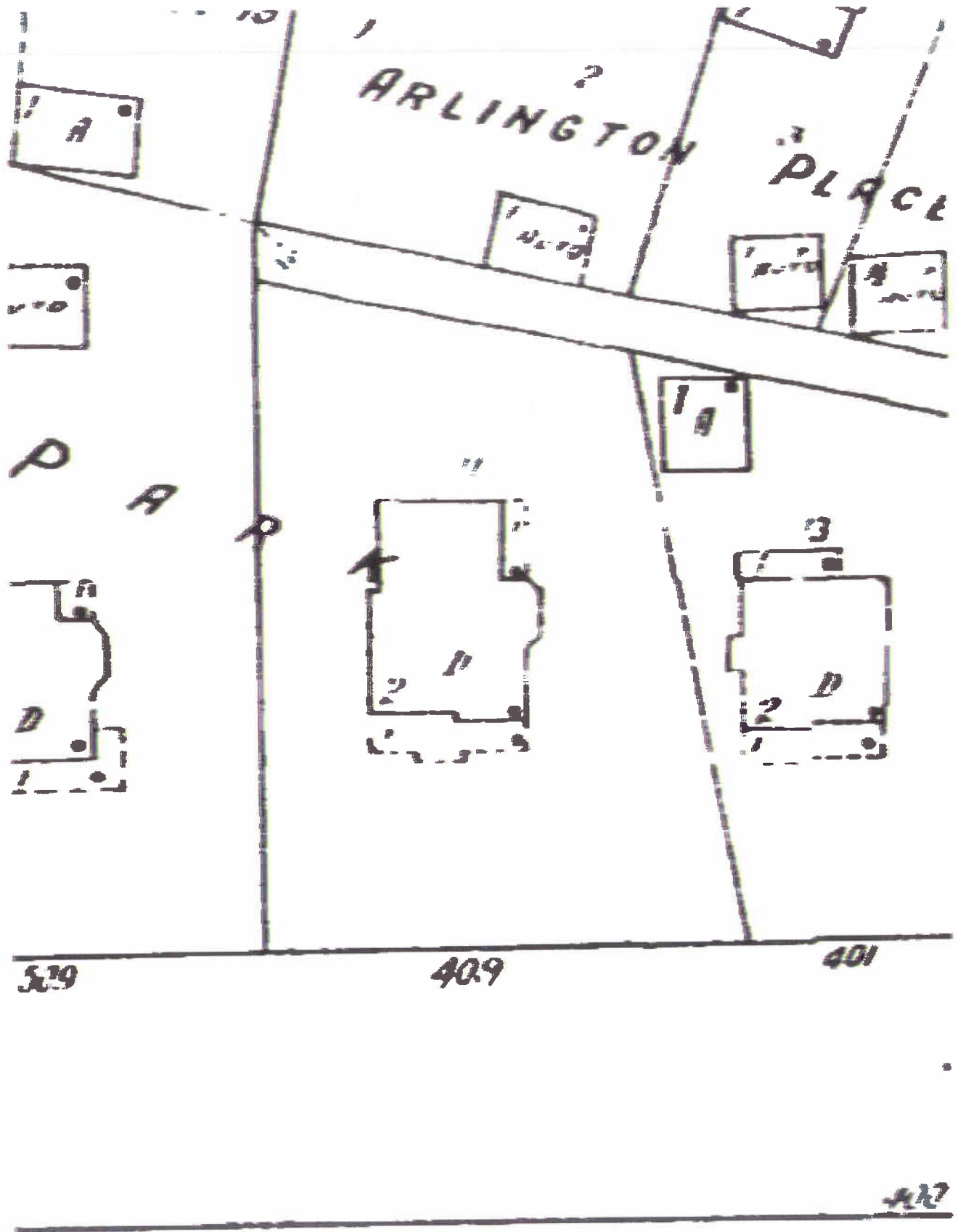
409 FRANKLIN YR: 1920



409 FRANKLIN YR: 1957

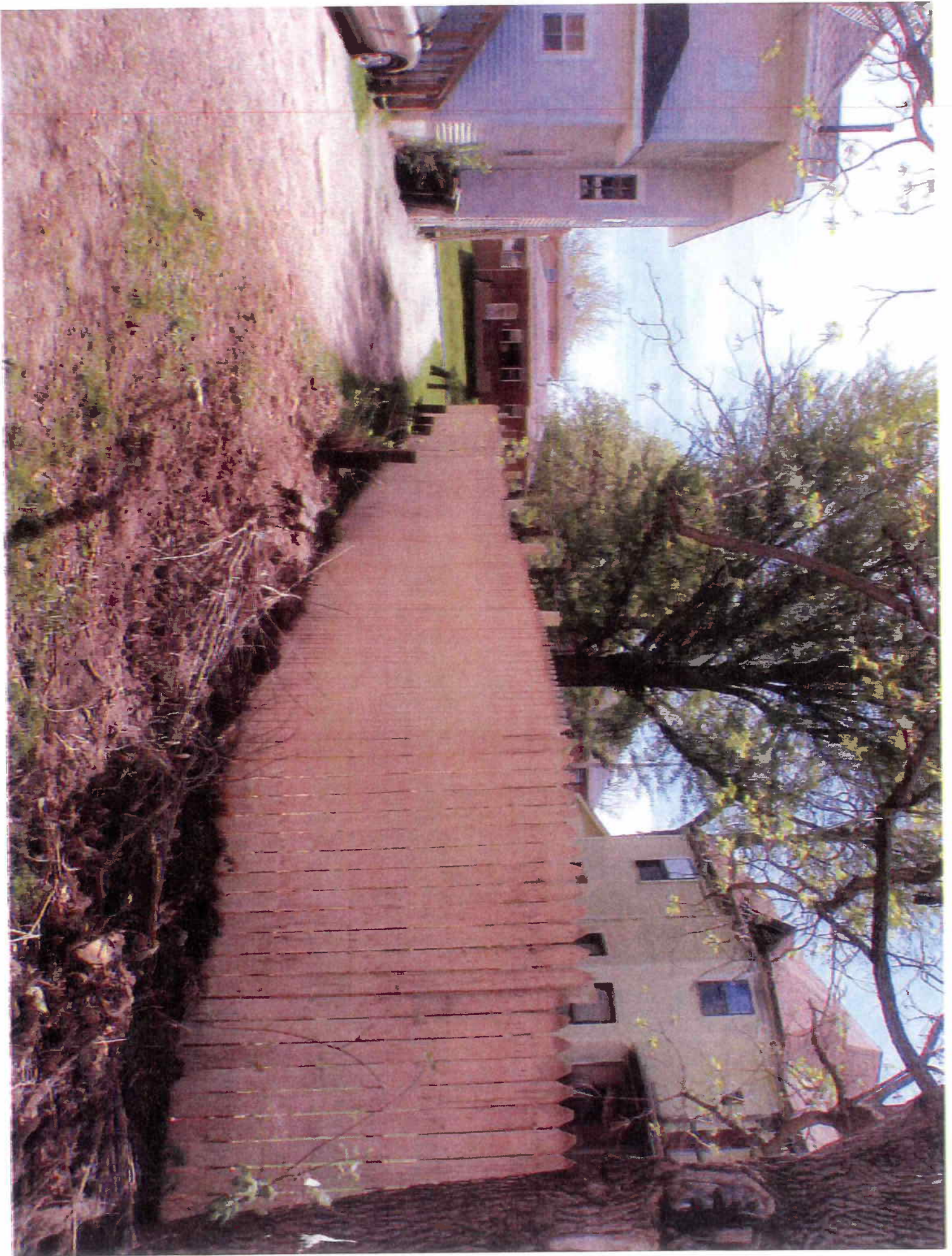
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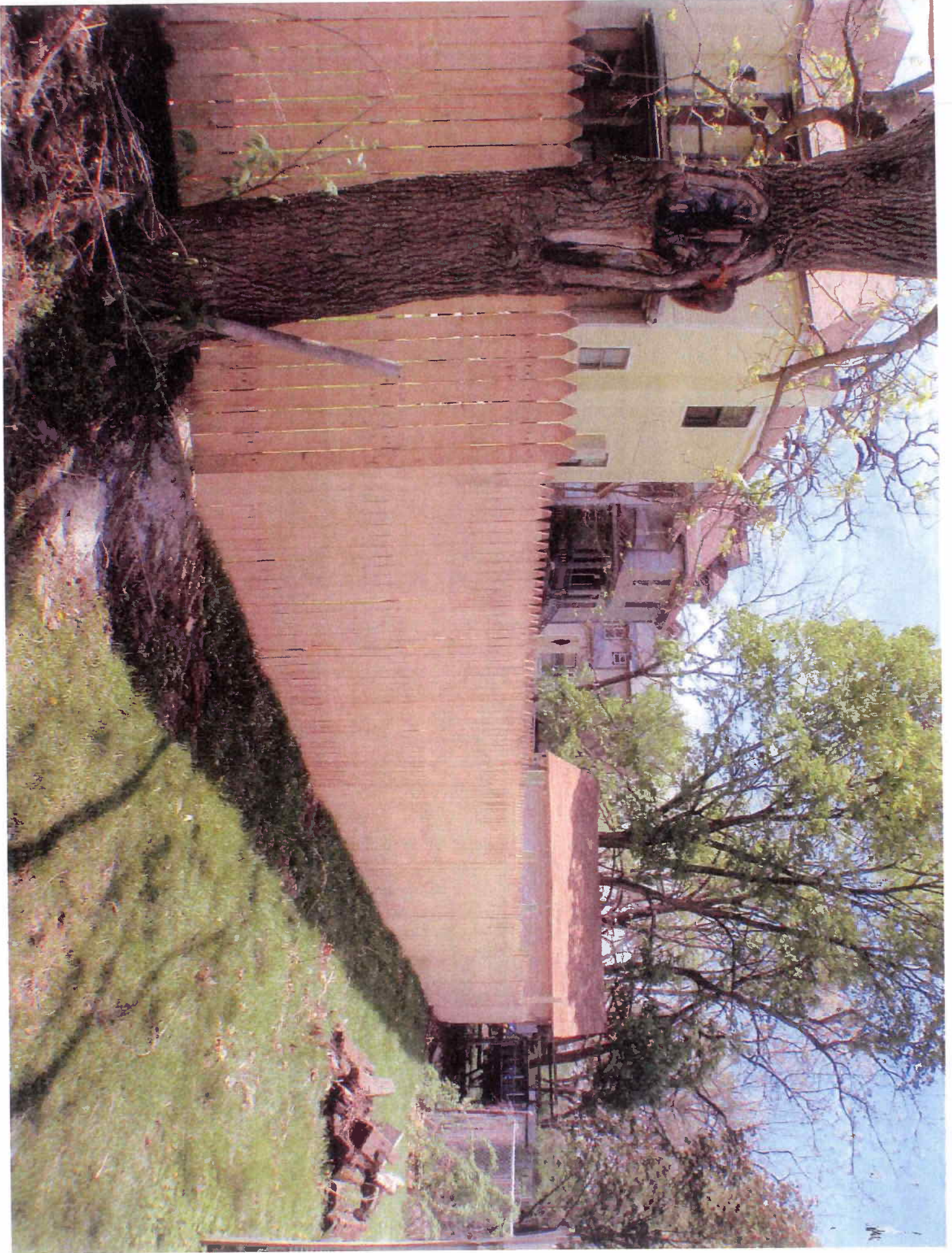


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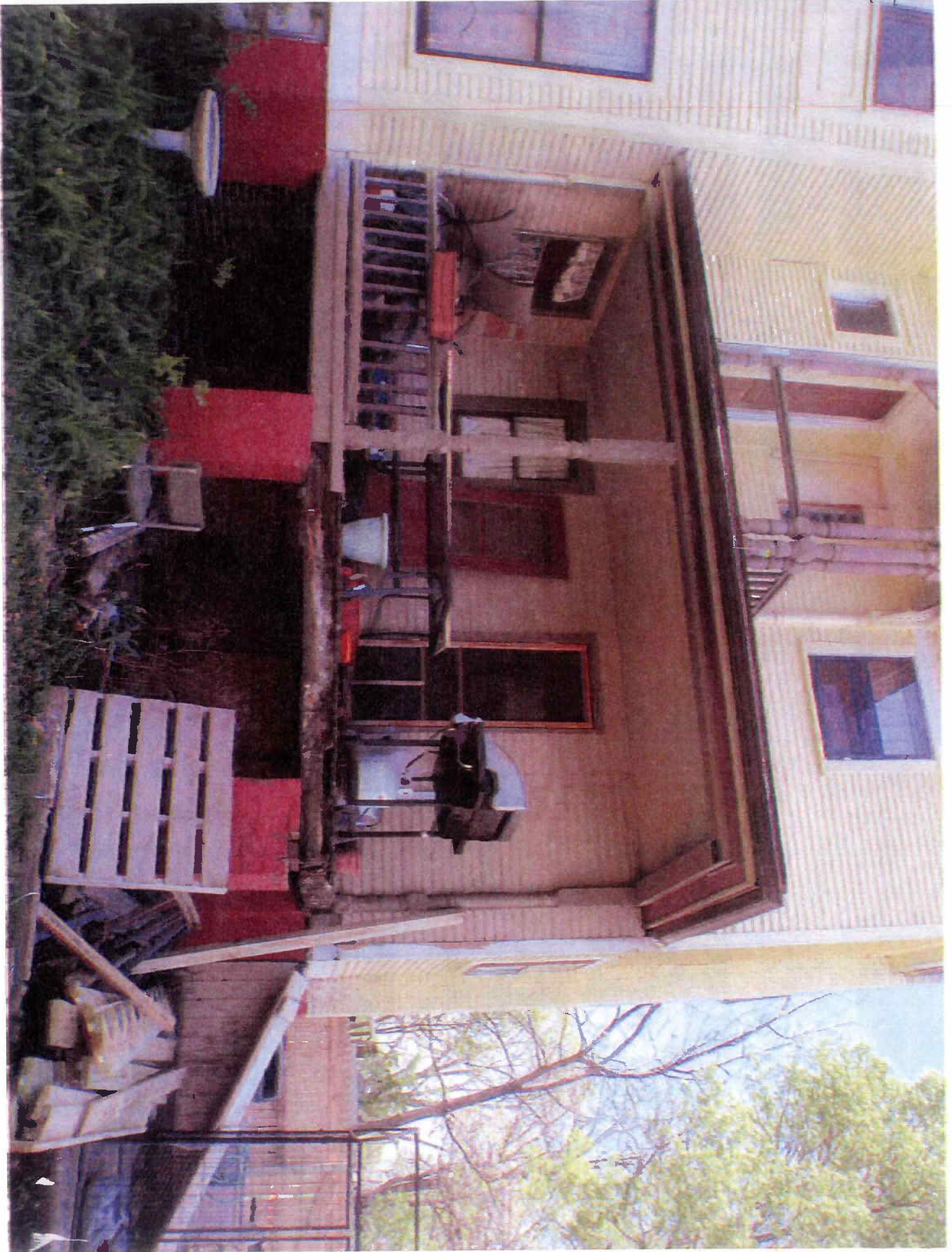


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APPLICATION FOR CERTIFICATE OF APPROPRIATENESS
CITY OF DES MOINES
HISTORIC PRESERVATION COMMISSION

(To be filled out by the applicant)

File Number 20- 2012-9.04

Address of the Property 439 Franklin Ave Des Moines 50314

Owner of the Property James Tully

Owner's Phone Number: Home 515-401-2282 Work _____

Applicant's Name, Address and Phone Number (if different from owner)

Current use of the property Residential Single family home

Approximate date structure was built if known _____

Note the year any major alterations were completed and indicate source of data

Patrick Duggett
Applicant's Signature

4/9/12
Date

To be filled out by staff:

Date of Historic Preservation Commission meeting 4/18/12

Received by [Signature] Date 4/9/12

Your application will be placed on the agenda for the next Commission meeting if it is received
two weeks prior to the next regularly scheduled meeting date.
Meetings are scheduled for the third Wednesday of each month.

NOTE: You are hereby advised that no work should commence on the above property until such time as the
Historic Preservation Commission has issued a Certificate of Appropriateness

To be filled out by the Applicant

Separately describe each job to be performed on the exterior of the structure and/or property.

1a. What is being done? 1b. What materials are being used? 1c. What changes in appearance will there be?

Fencing around property. 4x4 posts, concrete,
wood fence, preassembled sections.

2a. What is being done? 2b. What materials are being used? 2c. What changes in appearance will there be?

Repairing deck. 2x8 boards, 4x4 posts, wood deck
boards,

3a. What is being done? 3b. What materials are being used? 3c. What changes in appearance will there be?

Attach drawings as described on page 2 to illustrate above described changes.



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CITY OF DES MOINES
HISTORIC PRESERVATION COMMISSION
MEETING SUMMARY

DATE: April 18, 2012
TIME: 5:30 P.M.
PLACE: City Council Chambers
City Hall, 400 Robert D. Ray Drive

COMMISSIONERS PRESENT: Susan Holderness (Chair), York Taenzer (Vice Chair), Patricia "Pat" Barry, Robert "Bob" Griffin, Elaine Estes, Denny Marchand and David Sweet.

COMMISSIONERS ABSENT: Breann Bye, Scotney Fenton, Shirley Shaw and Teresa Weidmaier.

STAFF PRESENT: Jason Van Essen, Senior City Planner.

DISCUSSION SUMMARY OF AGENDA ITEM #4

Request from James Tully (owner) represented by Patrick Duquette to allow the following at 409 Franklin Avenue in the River Bend Local Historic District. (20-2012-9.04).

- A) Retention of a 6-foot tall fence in the east side and rear yards.
- B) Repair of the rear porch.

Chair Susan Holderness: Read the agenda description for item #4.

Jason Van Essen: Displayed an aerial map, photographs and historic Sanborn Map images of the property. Presented the staff report and staff recommendation. Noted that Commissioner Bye apologized for not being able to attend the meeting and asked staff to share her belief that the fence should be moved closer to the rear porch so that it functions as a rear yard fence.

Chair Holderness: Asked Jason to clarify that staff's thought of requiring the fence to be moved back was to make it become more of a side yard fence. Noted that when she drove past the site that the fence appeared to be in the front yard.

Jason Van Essen: Agreed that was the basis of the staff recommendation. Referenced a recent case for a 6-foot tall fence on 16th Street in Sherman Hill where the property owner was required to construct the fence 10 feet back from the front wall plane of the house. Stated that he could not recall if landscaping was required in front of the fence or not.

York Taenzer: Indicated that the applicant for that case was Ryan Howell and that the fence he proposed was open with spaces between the pickets that were generally equal to the width of the pickets. Stated that even though that fence was 6-foot tall it has an open appearance, which is different than what is being proposed here.

Jason Van Essen: Agreed that there is a difference between the two fence designs.

Denny Marchand: Asked when the fence was constructed.

Jason Van Essen: Stated that it is a couple of weeks old and that it was constructed before a stop-work order could be issued.

Denny Marchand: Asked if they had a permit.

Jason Van Essen: Stated that they do not have a permit and that staff understands they were advised by a neighbor before they started construction that they needed a Certificate of Appropriateness and a permit. Stated that he understands that they have had concerns with people walking through their yard and that they have young children and felt they needed put the fence up and then seek approval.

Chair Holderness: Asked staff to clarify that no permit has been issued or just no Certificate of Appropriateness.

Jason Van Essen: Stated that no permit has been issued and that if they would have applied for one they would have been directed to first obtain a Certificate of Appropriateness. Stated that he sees the staff recommendation as a starting point or a minimum. Noted that the staff report suggests that depending on the approach taken, the Commission may want to consider different solutions or a mix of solutions such as changing the setback and landscaping. Mentioned Commissioner Bye's comment of moving the fence closer to the rear porch so that it was a rear yard fence.

David Sweet: Indicated that he understood why the applicant wanted the fence as there seems to be a lot of activity at the apartment building next door. Suggested that no amount of shrubbery would conceal the fence and that it has the appearance of a solid wall extending off the front of the house.

Chair Holderness: Asked for the applicant to come forward.

Patrick Duquette (409 Franklin Avenue, Des Moines): Indicated that he was representing the owner, James Tully.

York Taenzer: Asked Mr. Duquette that if the Commission offered some options would he be able to make a decision on a preferred option without Mr. Tully.

Patrick Duquette: Stated that he and his wife are renting the property and that the fence was supposed to be installed last August. Noted that due to financial constraints the project had to be pushed back. Indicated that he could make changes without consulting with James and noted that James lives in Chicago.

York Taenzer: Asked if he would consider having some of the fence be an open picket style instead of having the pickets right up to each other. Noted that opening it up could be done by putting a space between the pickets that is equal to the width of the pickets or if he preferred, a narrower gap such as 4 inches could be done since he has small children.

Patrick Duquette: Indicated that they have two small dogs so the full width of the picket would be too wide of a space, but that they could look at a 4-inch gap. Offered lowering the height of the fence at the front as an option. Expressed a willingness to plant shrubs and agreed that after hearing the discussion the fence does appear to be quite tall. Indicated that moving the fence to the north poses a few difficulties. Showed photographs identifying a water spigot and two utility boxes that are near the front of the house on the east wall and suggested they may be in the way of complying with the staff recommendation.

Jason Van Essen: Clarified that the staff recommendation identifies a minimum distances and not an exact spot that the fence should be moved back to that way adjustments could be made to accommodate impediments.

Patrick Duquette: Noted that the current location of the fence conceals the water spigot and two utility boxes from view from the street. Expressed his belief that it was more appropriate to line the fence up with a corner of the house. Wondered if it would be an option to just lower the fence and not move it back. Asked if the Commission thought that lowering the portion of the fence that faces the street would be appropriate.

York Taenzer: Expressed his belief that lowering the fence to 4 feet would be an option and asked what he thought of using a 2½-inch wide picket with a 2½-inch wide gap between the pickets. Thought that should be narrow enough to contain the dogs but would look and feel open.

Patrick Duquette: Stated that he thought a space of 2 to 3 inches between the pickets would be acceptable. Noted that recently they had someone walk pass their house that threatened their 9 year old child and that it was in their best interest to move forward with the fence quickly to protect their children. Apologized that they did the work without going through the process. Indicated that he had already planned vacation time to construct the fence and had purchased all of the materials.

Chair Holderness: Asked Mr. Duquette if he understood that he will need to get a permit from the City's Permit & Development Center in addition to the Certificate of Appropriateness. Noted that she had recently obtained a permit for a fence at her house and that it was a quick process.

Patrick Duquette: Replied that he understood and reiterated his apology. Indicated that he was acting on the advice of the owner who said that he should go ahead with the project. Stated that being novices they were not aware that they needed a permit.

York Taenzer: Suggested that if the fence is lower in the front that maybe a portion of the north-south segment along the east property line also step down as a transition.

Chair Holderness: Expressed support for having a 4-foot tall transition along the east property line.

Jason Van Essen: Showed a photograph of the southeast corner of the fence. Expressed support for a 4-foot tall transition along the east property line if the front facing portion is going to be reduced in height to 4 feet.

York Taenzer: Stated that the 4-foot tall transition segment along the east property line could be as minimal as 8 feet in distance.

Patrick Duquette: Noted that he has not finished the trim work and that the tops of the posts are not a finished product.

Chair Holderness: Asked if this option would be his preference over having to move the fence back.

Patrick Duquette: Stated that he would prefer lowering it over moving it so he could reuse the existing posts. Stated that lowering it was not an issue and that spacing out the pickets would probably not be an issue and that he would be willing to place shrubs in front of the fence as well.

Chair Holderness: Asked if there were any comments from the audience.

No one came forward to speak.

Denny Marchand: Asked the applicant to clarify that they started planning their project last fall.

Patrick Duquette: Stated that they moved here in August and it was discussed with the owner before they moved in. Stated that as part of their rent agreement they are suppose to make improvements to the property and that this was one of the improvements they need to accomplish.

Denny Marchand: Asked for clarification that this was a part of their original agreement.

Patrick Duquette: Replied yes and noted that there was a chain link fence on the property before they moved in and that there are remnants of it still on the property. Expressed his belief that they are improving the area.

Denny Marchand: Wondered if some sort of waiver could be granted in this case. Stated that the first process in building is planning and that they moved in before the area was designated as a local historic district. Stated that at that point they had planned to build the fence.

Chair Holderness: Questioned if they would have been able to receive a permit since a portion of the 6-foot tall fence is in the front yard.

Jason Van Essen: Clarified that the fence as constructed complies with the Zoning Ordinance because the fence is flush with the front wall of the house and does not extend into what is by zoning definition the front yard. Stated that how the City enforces changes in codes and which version you have to comply with is based on whether or not there is an active permit. If the applicant would have pulled a fence permit before the district was designated they would have the right to complete their project and would not be required to obtain a Certificate of Appropriateness.

Denny Marchand: Stated that he understood but at the same time part of the condition of their rent back in August was that they were suppose to build this fence. And this is a formality and that we should not discount this.

York Taenzer: Replied that they still needed to obtain a permit

Pat Barry: Stated that she agreed with staff and noted that there is a lot of thinking that goes into all projects before a permit is pulled.

Denny Marchand: Expressed his belief that the permit is just a formality.

Chair Holderness: Stated that when she pulled a fence permit they asked her about height and other details and that an inspector came out to check the work. Asked if there were anymore comments or questions, or if there was a motion ready to be presented.

Patrick Duquette: Introduced is wife Danielle.

Danielle Duquette: Clarified that this fence is technically their August 2011 rent.

York Taenzer: Moved approval of Part A of the request subject to the following conditions:

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1. The portion of the fence that faces Franklin Avenue and the southern 8 feet of the east facing fence segment shall be converted to a 4-foot tall picket fence that complies with the following:
 - a. The picket tops shall be cut to match the tops of the existing pickets.
 - b. The pickets shall run between the posts so the posts are fully exposed.
 - c. Spaces shall be provided between pickets that are generally equal to the width of a picket.
 - d. The fence shall step along a grade change at intervals set by the length between posts and not at variable lengths or with a continuously straight top edge.
 - e. The space between posts shall be uniform, and no less than 4 feet and no greater than 14 feet in distance.
2. All posts shall extend a minimal and uniform distance above the pickets.
3. A fence permit shall be obtained from the City's Permit and Development Center.

David Sweet: Seconded the motion.

VOTE: A vote of 6-0-1 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			
Bye				X
Griffin	X			
Holderness	X			
Estes	X			
Fenton				X
Marchand			X	
Shaw				X
Sweet	X			
Taenzer	X			
Weidmaier				X

DECISION 1 – Part A

ACTION OF THE COMMISSION:

Granting the application as presented subject to the conditions below would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications.

CONDITIONS:

1. The portion of the fence that faces Franklin Avenue and the southern 8 feet of the east facing fence segment shall be converted to a 4-foot tall picket fence that complies with the following:

- a. The picket tops shall be cut to match the tops of the existing pickets.
 - b. The pickets shall run between the posts so the posts are fully exposed.
 - c. Spaces shall be provided between pickets that are generally equal to the width of a picket.
 - d. The fence shall step along a grade change at intervals set by the length between posts and not at variable lengths or with a continuously straight top edge.
 - e. The space between posts shall be uniform, and no less than 4 feet and no greater than 14 feet in distance.
2. All posts shall extend a minimal and uniform distance above the pickets.
 3. A fence permit shall be obtained from the City's Permit and Development Center.

Chair Holderness: Asked if there was anyone in the audience that wished to speak on Part B of the request.

No one came forward.

Chair Holderness: Asked if the Commission had any additional questions.

Jason Van Essen: Asked the applicant to recap the information he shared with staff during the site meeting as he thought it would be valuable for the Commission to hear.

Patrick Duquette: Showed a picture of the porch. Noted that he has the missing segment of railing and intends to reuse it. Indicated that the north brick pier is crumbling and needs repaired. Pointed out floor joists that are rotting and stated that he intends to replace them. Indicated that he would like to construct the steps to the east of the porch.

York Taenzer: Asked if he had the porch railing that was the 8-foot dimension for the area between the corner and the post.

Patrick Duquette: Indicated that he did.

Jason Van Essen: Asked if it ran the full length between the center post and the north corner post.

Patrick Duquette: Replied that it does.

Jason Van Essen: Ask if he had an existing balustrade for the north side of the porch between the post and the house wall.

Patrick Duquette: Stated that he does have existing railing for that area as well.

York Taenzer: Noted that there may not have been a staircase originally but that he thought there probably was.

Elaine Estes: Stated that typically the stairs would have come off the porch in the vicinity of the exterior cellar door, which in this case is to the north of the house.

Patrick Duquette: Stated that there is a cement patio to the north of the porch so running the stairs to the north would allow the stairs to land on the patio. Indicated that their preference is to run the stairs to the east but they are flexible. Noted that most of the floor boards are sound but that a section is rotten and needs to be replaced. Stated that he has purchased some generic floor board to use to replace the rotten boards but that if the Commission preferred that he replace all of the boards so that they would all matched that he was willing to do so.

Denny Marchand: Asked if they were tongue-and-groove style boards.

Patrick Duquette: Stated that the ones that he bought are not.

Denny Marchand: Asked if the existing boards were.

Patrick Duquette: Stated that he could not recall.

York Taenzer: Stated that typically your porch decking would be tongue-and-groove style and constructed of pine, fir or cedar.

Denny Marchand: Noted that Menards carries tongue-and-groove floor boards.

Patrick Duquette: Indicated that he would look for tongue-and-groove boards and that he had only purchased two or three deck boards at this point and that it was not a problem to use tongue-and-groove boards instead.

Chair Holderness: Asked if there was any additional questions or comments.

York Taenzer: Moved approval of Part B of the request subject to the following conditions:

1. All repairs and replacement of materials shall be done with matching materials of a matching design including, but not limited to fascia, posts, balusters, railing and brick piers.
2. All new porch flooring shall be tongue-and-groove style and constructed of wood.
3. A round black metal bar may be installed above the balustrade if the City's Permit and Development Center determines that a railing is required that is taller than the historic balustrade.
4. Wooden steps with railing that matches the porch balustrade may be constructed to the north of the porch.
5. Compliance with the building code and obtainment of all necessary permits for construction.

Pat Barry: Seconded the motion.

VOTE: A vote of 7-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			

Bye		X
Griffin	X	
Holderness	X	
Estes	X	
Fenton		X
Marchand	X	
Shaw		X
Sweet	X	
Taenzer	X	
Weidmaier		X

DECISION 2 – Part B

ACTION OF THE COMMISSION:

Granting the application as presented subject to the conditions below would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications.

CONDITIONS:

1. All repairs and replacement of materials shall be done with matching materials of a matching design including, but not limited to fascia, posts, balusters, railing and brick piers.
2. All new porch flooring shall be tongue-and-groove style and constructed of wood.
3. A round black metal bar may be installed above the balustrade if the City's Permit and Development Center determines that a railing is required that is taller than the historic balustrade.
4. Wooden steps with railing that matches the porch balustrade may be constructed to the north of the porch.
5. Compliance with the building code and obtainment of all necessary permits for construction.